

# **“Administration of Justice in Mughal Empire” (with the special reference the reign of Aurangzeb)**

**“मुगल साम्राज्य में न्याय का प्रशासन”  
(औरंगजेब के शासनकाल के विशेष संदर्भ में)**

A Thesis Submitted  
In fulfillment of the requirements  
For the Degree of Doctor of Philosophy to the  
Tantia University, Sri Ganganagar  
In the Faculty of Arts, Crafts & Social Science  
Subject - History

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- (ii) I hereby certify that present research work is an original piece of research work carried out by me under the supervision of **Dr. Seema Verma** and during present research work I have fulfilled all the requirements in connection to my Ph.D. Work.
- (iii) I further declare that there is no plagiarism in this thesis and it has not been earlier submitted for any other degree/diploma.

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## Chapter - 1

### INTRODUCTION

The administration of justice was intimately connected with the *sadr* who provided an institutional liaison between the theologians including the *qazis* and the Mughal emperor. The office of the *sadr* was basically concerned with charitable grants popularly known as *madad-i-maash*. Every grant including charities by the royal family for free kitchens and hospitals had to pass through his office. The practice of *suyurghals* to the religious and quasi-religious officers and religious institutions (*auqaf*) through the *sadr* had begun right from the establishment of the Mughal empire in India. The Mughals had realized that without the political unity it was rather difficult to establish a systematic centralised administration. Akbar's dissatisfaction over the existing religious-cum-judicial office of the *sadr-us-sudur* and its attitude towards co-followers and non-Muslims led to certain measures which placed a check on *sadr's* arbitrary powers over *madad i-maash* by evolving an elaborate procedure determined by imperial regulations from time to time. At the same time the scope of *madad-i-maash* was extended from the traditional, orthodox sayyids and shaikhs to other categories of individuals including non-Muslims. Although Akbar and his successors guarded their imperial prerogative over the *madad-i-maash* grants and its beneficiaries, they did not try to undermine the *sadr's* position. Rather they showed their concern for the irregularities in the department and for underserving cases without interfering in the functioning of the judicial dignitaries. The emperors continued reposing confidence in the *sadr* for the *madad-i-maash* and his overall supervision over the recipients. Shahjahan is accredited with bringing the imperial *sadr* within the regular framework of the Mughal nobility. Akbar's liberal policy based on *sulh-i-kul* and enlargement of the scope of the *madad-i-maash* brought about a definite change in the attitude and outlook of the *sadr* and other religious and quasi-religious officers. Thus by the time Aurangzeb came to power the office of the *sadr* which had originated from the religious background stood distinct and separate from the *qazi* and other minor religious officers. Rather he had become the pivot around whom the team of the religious and judicial officers in the Mughal empire revolved.

The supervision of charitable grants both in revenue-free land and cash stipends endowed the *sadr* with ample patronage and a close association with the religious and quasi-religious officers viz. provincial *sadr*, *qazis*, *muhtasibs*, *mutawallis*, *khatibs*, *imams* and *muezzin* at every level. He acquired the status of their virtual guide and administrator and as such the recipient beneficiaries looked to him for redress of their grievances and protection of their rights. However, the age-old tradition of selecting the *qazis* from the *ulama* by virtue of their knowledge continued uninterruptedly under Aurangzeb. It is in this sense that the *sadr* as the head was theoretically considered responsible for enforcement of the *shariat* although a separate judiciary headed by the *qazi* existed at all levels.

The period of Aurangzeb is highly controversial from religious point of view. It has been branded by some as having made a somersault in favour of theologians and deep-rooted emphasis on the Islamic principles. Some scholars have also argued that Aurangzeb in the early phase tried to set guidelines by certain measures which had their roots in the *shariat*. That the revival of the *muhtasibs*, destruction of temples, imposition of *jizya* on the Hindus and other non-Muslims, resumption of *madad-i-maash* grants given to the Hindus, etc. were some of the steps taken by Aurangzeb in an attempt to create a *shariat* based state. Basing their arguments on medieval chronicles, some historians have also suggested that Aurangzeb gave a free hand to the *qazis* as a result of which they became dominant in all branches of administration resulting in overall inefficiency. In order to examine these views objectively and in their proper perspective it has become necessary to rectify some of the biases and find out the actual role played by the religious and judicial officers under Aurangzeb.

The present study begins with the assessment of the *sadarat* as noticed in Aurangzeb's period, contribution of the *sadrs* to the working of the department and to find out how the character of *madad-i-maash* changed in the last decade of the seventeenth century. It is also seen whether in the general ordering of *madad-i-maash* any discrimination was shown towards non-Muslims. The appointment of the key-figure of Mughal judiciary i.e. *qazis* at the centre, in provincial headquarters and at local level viz. in *parganas* and their role need a full scrutiny in the overall structure of the religious-cum-judicial department and this forms the main theme. From their appointments and the duties assigned to them an attempt

has been made to recast the actual jurisdiction of the *qazi* both in the capacity of a legal adviser and a judge. The question on the nature of advice sought from him and how far it was obligatory for the executive to accept it has also been examined in order to judge whether the Islamic principles really dominated in Aurangzeb's period. The institution of the *qazi* as built up at the local level offers a very interesting study. Apart from dispensing Muslim law, the *qazi* performed the duties of a modern registrar inasmuch as various types of documents were either attested under his seal for authenticity or registered in his court for safety and record. In fact the *qazi*'s office generated mobility among a section of society even at the village level due to growing number of people possessing distinct rights and privileges over the land. Reporting was another important aspect of *qazi*'s duties which included attestation of the grievances of the people, both Muslims and non-Muslims of his area in the form of a *mahzar*. While examining his duties an attempt has been made to see whether he could always enforce the *shariat* or simply compromised with the imperial tradition, regulations and local customs in deciding disputes. The period under study also witnessed reemergence of the office of the *muhtasib* which poses a basic question : whether he really succeeded in enforcing imperial regulations relating to Muslim morality? Could his office result in creation of any ideological crisis in the Muslim society or did the *muhtasib* simply turn out to be another reporter for the Mughal government for action against certain persons. Similarly, it is doubtful if the *mufti*'s assistance to the *qazi* was always imperative, at least, in this period.

With the tapping of a variety of sources ranging from chronicles and newsletters to various collections of farmans and official manuals it is now possible to determine the nature of work performed by the functionaries in their respective jurisdiction. The fresh source-material occasionally contradicts the religious fanaticism reflected in our medieval chronicles. Among the important chronicles of the period mention can be made of *Alamgirnama* which although covers the official history of Aurangzeb's reign for the first ten years only yet gives useful information on the imperial directives relating to revival of the post of the *muhtasib*, appointment of *sadrs* and *qazis* in the empire during this period. *Maasir-i-Alamgiri* dealing with full period of Aurangzeb is valuable for information on the functions of imperial *qazis*, *muhtasibs*, *amins* for *jizya* and

references to some religious officers and their working in the newly-acquired territories in the Deccan. *Mirat-ul-Alam* gives a good biography of some of the *sadrs*, *qazis* and other religious dignitaries of the early period of Aurangzeb. *Muntakhab-ul-Lubab* of Khafi Khan is a voluminous work in three volumes covering the period from 1517 to 1731. The author who was an *amil* in the Deccan during Aurangzeb's reign was obviously well conversant with the office procedure. He seems to have widely copied from Sadiq Khan and Abul Fazl Mamuri but on the second phase of Aurangzeb's reign as given in Volume II of his work, he adds new information on political events, administrative changes, rampant corruption in the revenue department, appointment of new officers, working of *sadr's* office and scattered references to grants of *madad-i-maash* to individuals and some *dargahs*. *Mirat-i-Ahmadi*, like *Akbarnama*, is a mine of information, the text of which is in two parts and a supplement. The author was a *diwan* of Gujarat towards the close of Muhd. Shah's reign and had access to official records. *Mirat* is most important work for detailed information on the working of religious and quasi-religious officers, *madad-i-maash* grants and imperial regulations on *jizya* and *zakat*. By including copies of the imperial *farmans* of Aurangzeb's period as issued from time to time and the guidelines to the officers, the author has facilitated our knowledge on various branches of Mughal administration. The *Supplement* deals with the administration in the provincial capital and in the *parganas*, illustrated by a statistical account of the *sarkars* and *mahals* in Gujarat. *Fatuhah-i-Alamgiri* of Ishar Das Nagar, a contemporary account completed on 21<sup>st</sup> Rabi I 1143/1730, contains valuable information on the author's early association with imperial qazi *Shaikh-ul-Islam*. Another chronicle, *Riyaz-us-Salatin* devotes a portion of information on the working of religious institutions in Bengal during this period.

The two important manuals of the period : *Nigarnama-i-Munshi* and *Siyaqnama* are not as exhaustive as *Ain-i-Akbari* yet they apprise us a systematic account of Mughal administrative practices at the centre and at the local level. While *Nigarnama* compiled in 1095/1684 contains collection of letters and specimen of official documents relating to appointment and duties of the *sadr*, *qazi*, *muhtasib* and *mutawalli*, *Siyaqnama* makes a particular reference, among other information, to the *diwan*, papers maintained by him and those by the

provincial *sadrs*. The author of *Nigarnama* who was attached to prince Jahandar Shah explains the procedure followed in the *madad-i-maash* grants which further corroborates with slight elaboration information supplied to us in *Farhang-i-Kardani*. *Dastur-ul-amal-i-Bekas*, composed in 1144/1731, through a number of *farmans*, *nishans*, *sanads*, *parwanas*, *hasb-ul-hukms* and *arzdashts* enumerates the duties of the *sadr*, *qazi*, *mufti*, *muhtasib*, *khatib* as also *madad-i-maash* given to them. Section V of the book contains a copy of the *farman* of Aurangzeb issued in 34 RY/1690 laying down regulations of succession to *madad-i-maash*. Similarly, *Hidayat-ul-Quwaid*, composed in 1715, deals with the functions of the religious and quasi-religious officers in *bab* II with a fuller information on the duties of the *muhtasib* in ff. 21-2. Another manual under the title *Zawabit-i-Alamgiri*, compiled in post-1692 A.D. is valuable for information on powers and functions of the Mughal officials, rules of service, forms of appointment and a list of *mansabdars* of Aurangzeb's reign.

The newsletters known as *waqais* regularly sent from the provinces to the imperial court form an authentic source of information for the study of the actual working of the office of the *qazi*. *Waqiat-i-Ajmer* and *Ranthambore* gives useful information about the judicial decrees of the *qazis*, consultation of the governor and the *faujdar* with the *qazi* while deciding certain disputes, transfer of cases and possible clashes on interference in respective jurisdictions. These reports pointedly refer to the miserable condition of the *yaumiadarans* at Ajmer *dargah* and subsequent appointment of an *amin* by the *sadr* to look into their grievances. Selected *Waqiat-i-Deccan* also contains reports of *waqianigars* from 1660 to 1671 from different forts and regions of the Deccan highlighting various matters of our concern. The reports are so meticulous that apart from price bulletins, they do not even fail to mention the smallest events which created obstruction in the work of the *faujdar* and the *qazi*. The information relates to various commodities, transit of money, attestations by the *qazi*, holding of the court and orders from the emperor to the *diwan* and the *sadr*. In order to assess the earlier practice a few documents of Shahjahan's period pertaining to the Deccan and *Mughal Archives* edited by Z.Shakeb have also been examined. The information in these sources has been further supplemented by *Selected Documents of Aurangzeb's Reign*. Besides, *Akhbarat-i-darbar-i-imualla* i.e.

reports sent by the agents of autonomous chiefs from the imperial court including *arzdashts* have also been examined.

The various collections consulted for scrutiny for the present work consist of a number of documents such as *farmans*, *nishans*, *sanads*, *parwanas*, *hasb-ul-hukms*, *arzdashts*, *yaddashts*, *mahzars*, letters of appointments of various officials, sale deeds, gift deeds, judicial decrees, etc. *Faramin-i-Salatin*, a collection of important *farmans* and other documents, compiled by Bashiruddin Ahmad, covering the period from Akbar to Shah Alam II, contains a rare collection of 188 documents out of which 25 relate to Aurangzeb's period. Most of these documents deal with fresh grants, renewal of the existing *madad-i-maash*, gift deeds, complaints in the *qazi's* court, appointment and duties of the *qazis*, etc. A later *farman* addressed to the local *qazi* relates to a *muhtasib's* appointment in *pargana* Sonapat which gives some idea of the continuity of this post under the later Mughals. The material in the collection is very valuable and has been fully utilised for the present work. Another important collection is that of the documents, mostly *madad-i-maash* calendared by K.K. Datta for the *suba* of Bihar. The collection has proved very helpful to know the actual working of the *sadr's* office, renewal and confirmation of the *madad-i-maash* given to religious beneficiaries, conversion of *muqarrari* land into *madad-i-maash* and a few grants given in favour of the Hindu musicians, physicians, and brahmins. The Allahabad Documents edited by Abdur Rashid and preserved at Central Record Office, Allahabad and a transcript of selected documents preserved at Aligarh consist of a large number of *farmans*, *sanads*, transfer of *zamindari* rights, *madad-i-maash* and judicial decisions of the *qazis*. These documents widely cover the *suba* of Avadh and deal with the period from Akbar to the later Mughals. The documents are dated and bear the seals of various officers. Several documents of Aurangzeb's period have been found attested under the seal of the *qazi*. The seals usually mentioned the year also which might not necessarily correspond to the exact year of the document sealed because in most of the cases seal once made with the *qazi's* name and the year continued for several years. However, the practice of attestation and registration apprises us of the administrative duties of the *qazi*. A few documents relate to dispute in the matter of inheritance or illegal possession of property or documents on which *qazi's* decree was sought. The

documents are very valuable for an integrated study of the present work. The Bilgram collection consisting of 78 documents with a transcribed copy available at Research Library Aligarh covers a lot of information on the conduct of cases by the *qazis* of Bilgram. Some of the documents relate to *madad-i-maash* and vividly describe the manner in which detailed *chaknama* was prepared in consultation with the *chowdharies* and *muqaddams* of the area before the grantee with or without office could settle. The collection contains two important *mahzars* and several judicial decrees, giving a fuller view of the procedural side of cases decided. Some Persian documents too throw considerable light on the duties of the *pargana qazi*, the *mufti* and a few grants to the Hindus. *Imperial Farmans granted to Tikayatji Maharaj*, imperial Mughal *farmans* relating to Gujarat and some *farmans* of Aurangzeb contained in various journals have also been examined to assess the religious attitude of the Mughal government.

*Maasir-ul-Umara* of Shah Nawaz Khan gives a biographical sketch of the nobles and religious officers of the Mughal government from Akbar to Muhd. Shah. The detailed information on the life and successive promotions in the career of some imperial *sadrs*, *qazis* and *muhtasibs* of Aurangzeb's period is perhaps not found anywhere in our contemporary sources. The work, although devoid of earlier references, is yet authentic even if it is subjected to critical examination. Khwja Yasin's *Glossary* probably meant for use by the English officials under the East India Company as also *Farhand-i-Kardani* have helped to clarify some of the technical terms used in the *madad-i-maash* documents. Personal letters and letters exchanged between the officials at various levels indicate the administrative practice and the duties assigned to some of the officers. Among the letters consulted are *Ruqqaat-i-Alamgiri*, *Kalimat-i-Taiyibat*, *Ahkam-i-Alamgiri* edited by Sarkar, *Mufid-ul-insha* and *Insha-i-Roshan kalam*. Literary in style, the *Ruqqaat* depicts an emperor's repentance in private life and simultaneously speaks of his contempt of corrupt *kotwals* and other officers. *Mufid-ul-insha* contains letters and petitions, sent on behalf of the *faujdar* of Kutch Bihar in suba Bengal against some *qazis* of his area. In addition, there are two important compilations of his area. In addition, there are two important compilations of the period viz. *Fatawa-i-Alamgiri* and the *Hedaya* which are valuable to understand the Muslim law and the functioning

of the *qazi's* court. It has not been found possible to go through the voluminous work of *Fatawa-i-Alamgiri*. However, for our purpose Urdu translation of Book II dealing with judiciary (qaza) has been consulted. Similarly, the *Hedaya* translated by Hamilton and edited by Grady for the official use of the British rulers has been used every now and then to understand fully various aspects of Muslims jurisprudence.

The European travellers' accounts especially those of Bernier and Manucci have been examined to determine the extent to which they corroborate the facts scattered through the pages of our Persian sources and supply additional information on the imperial court, towns and high officials they met. At times these accounts do not show correct knowledge of the administrative institutions of the period obviously when they try to judge Indian institutions in the light of the conditions in France and Italy. However, Manucci throws considerable light on the working of the *muhtasib* and the local *qazi* although some of his statements, if not fully unreliable, are open to doubt. English Factory Records relate to commercial transactions and apprise us of the behaviour of the Mughal officers including the *qazis* at trading centres.



## Chapter - 2

### Framework of Sadarat

The office of the *sadr* as it emerged under the Mughals was concerned principally with *madad-i-maash* grants. The department headed by the *sadr* known as *daftar-i-diwan-i-saadat*<sup>1</sup> was popularly styled as *diwan-us-sadarat*<sup>2</sup> and was one of the four major departments at the imperial court. The position of imperial *sadr* or *sadr-i-kul* or *sadr-us-sudur* was quite significant in the Mughal administrative set-up because he was the connecting link between the emperor on the one hand and individuals and religious establishments deserving charitable grants on the other. The *sadr* patronized and harmonised various groups of people ranging from orthodox ulama to liberal sufis. He was indirectly instrumental for religious toleration among communities in the rural population of Hindustan through grants to *dargahs* and *maths*. The *sadr's* office was also the originator of all those who were legal experts and moralists in as much as he was the recommending authority for their appointments and means of livelihood. In fact judiciary was an integral part of the *sadarat* as the *sadr* always kept himself in constant touch with the scholars from whose ranks the officials of the judiciary including the qazis were recruited.

Under Aurangzeb the imperial *sadr* was consulted in *daulat khana-i-khas* for distribution of *madad-i-maash* grants and cash stipends both to Muslims and non-Muslims.<sup>3</sup> The emperor could bypass orders directly also for the grant to any person on an application submitted by him or at the instance of any of the nobles or princess or ladies of the royal family (harem). The orders of the prince or princess in this regard were usually in the form of a *nishan* which was issued mostly on the recommendation of the *sadr*.<sup>4</sup> Several *madad-i-maash* grants given to the ladies, menial

servants, relations of the deceased officers, physicians, hospitals and for free kitchens during this period reveal the recommendation of the royal family also.<sup>5</sup> However, the imperial *sadr* was primarily responsible for every *madad-i-maash* grant because he had to affix his seal while endorsing such grants. The *sadr* was also authorised to verify, confirm and renew the old grants.<sup>6</sup> Apart from the common term *madad-i-maash* used both for revenue-free land grants and cash stipends, some of the grants made through the seal and endorsement of the *sadr* were also known under different nomenclatures viz. *suyurghal*<sup>7</sup>, *milk*<sup>8</sup>, *inam*<sup>9</sup>, *khairat*, *aima*<sup>10</sup>, *muafi*, *sarshikan*<sup>11</sup>. The terminology while conveying periodical and regional variations with technical difference on the question of subsistence did not change the basic character of religious grants in any way.<sup>12</sup> The *madad-i-maash* was given for the personal subsistence of the individuals and was not always in lieu of any definite service. A small section of the grantees were entrusted with certain religious and judicial duties, while a majority of the grantees had nothing to do but to pray for the prosperity of the emperor and the Mughal empire.<sup>13</sup> A few grants were also made for the maintenance of the religious institutions both of Muslims and non-Muslims. The *madad-i-maash* was given either in the form of (a) land : cultivable or uncultivated, free from revenue assessment (*mal-o-jihat*) and exempt from all heads of taxation (*haquq-i-diwani wa awarizat-i-sultani*) and (b) cash stipend (*wazifa*), free from deductions and directly from the treasury or from *kotwali chabutra* on daily, monthly or yearly basis. The *madad-i-maash* grant of land was basically transference by the state of its right of collection of land revenue and other cesses to the grantee. Like some other sections of medieval society the grantees too lived on the surplus produce of the land, although the nature and purpose of their grant made them distinct from others.

Since some of those who performed any type of religious or judicial function were mostly given *madad-i-maash* in revenue-free

land or in the form of cash stipend through the office of the *sadr*, the latter acquired a special position with regard to these office holders viz., provincial *sadrs*, *qazis*, *muhtasibs*, *mutawallis*, *muftis*, *imams*, *muezzins*, etc. While recommending grants the *sadr* enquired into the qualifications and personal merit of the individuals and then recommended a suitable grant.<sup>14</sup> Through the process of enquiry the *sadr* kept himself in constant touch with the Muslim scholars, theologians and pirs of the *dargahs*. This is also the reason why we do not find a non-Muslim occupying the office of the *sadr*. The *sadr* was also responsible for the appointment of the staff and provision of recurring expenditure in case where the local community was unable to maintain a mosque or a shrine.<sup>15</sup>

The provincial *sadr* (*sadr-i-juz*) exercised imperial *sadr's* functions in the province of his jurisdiction. In the *parganas*, wherever possible *mutawallis* were also appointed by the royal order to supervise the administration of grants to the Muslim religious institutions including the *dargahs* or trusts (*auqaf*) and to attend to the problems of the individual grantees.<sup>16</sup> In the absence of the *mutawalli*, the local *qazi* was entrusted with the duty of a caretaker for the upkeep of the Muslim religious establishments. Such a duty was specifically defined in his appointment letter. Through this mechanism the *sadr* was able to know the condition of individuals and *auqafs* spread throughout the nook and corner of the Mughal empire.

### **Qualities of the Sadr**

As the *sadr* was a chief connecting link between the emperor and the pious people as also scholars devoted to the service of religion, he was expected to enjoy respect and confidence of both. Quoting *Siyasatnama* and *Suluk-ul-Mulk* Ibn Hasan argues that the *sadr*, being the religious head and a distinguished scholar, exercised a sort of control over education, ideas and morals of the people.<sup>17</sup> However, this appears to be merely theoretical, at least, for the

seventeenth century. Abul Fazl is more realistic when he states that "as the circumstances of men have to be enquired into before grants are made, and their petitions to be considered in fairness, an experienced man of correct intention is appointed to the office of the *sadr*".<sup>18</sup> The *sadr's* qualities were (a) ability to think clearly, (b) a liberal outlook, (c) kind disposition and (d) industrious habits.<sup>19</sup> These qualities do not necessarily require a strict theologian or a legal expert for the post. Our chroniclers too do not attribute strictly orthodox views to any *sadr*. Rather they depict him tolerant and kind to all while the *qazis* were reportedly considered as bulwark of orthodoxy. Aurangzeb's *sadrs* were mostly men of noble lineage, high learning and possessed administrative acumen.<sup>20</sup> The *sadrs* could not always afford to be orthodox because the scope of *madad-i-maash* grants had already widened to people of other religions also. For all practical purposes the post had become supervisory in nature and its offer was considered more an act of imperial favour than of any religious merit required under the *shariat*. The *sadr* was expected to put up convincingly the condition of deserving people for grants and appointments in his religious-cum-judicial department without the help of any other intermediary. His capability lay in orderly management of religious concerns of the people in the far off areas through the *mutawalli* and sometime the *qazi*. The *sadr* was also expected to keep proper balance between people of *kalam* (theology) and *fiqh* (*shariat*) on the one hand and sufis and non-Muslim grantees on the other.

In consonance with the nature of his duties almost all the imperial *sadrs* of Aurangzeb were *mansabdars* holding a *zat* rank of 1000 and above, the highest being held by Muhd. Amin Khan II, popularly known as chin Bahadur Itimaduddaula (1698-1707)<sup>21</sup> and the lowest by Fazil Khan II (1682-88).<sup>22</sup> While the conferment of a regular *mansab* brought the *sadrs* within the framework of the Mughal nobility, it also changed their status and outlook from merely a religious dignitary to that a government servant bound by

*mansab* rules and imperial regulations. The *sadrs* could also move from one position to the other as and when the occasion arose.

The imperial *sadr* who was appointed directly by the emperor with a suitable *mansab* held office during the pleasure of the Mughal emperor. As with other high *mansabdars* the post of *sadr* was non-hereditary, although in practice, however, family ties, especially of the *ulama* and theologians sometimes played a significant role in the appointment. The *sadr* could be removed from service for inefficiency, misappropriation of money, cheating in land grants or disobeying imperial orders with regard to proper assignment of land grants.<sup>23</sup> The first *sadr-us-sudur* of Aurangzeb Syed Hidayatullah was removed from service in 4 RY/1660 due to inefficiency<sup>24</sup> while in 10 RY/1666 *sadr-i-kul* Qualij Khan was removed from his post for not performing his duties satisfactorily.<sup>25</sup> However, with the passage of time, the latter regained emperor's confidence, was appointed governor of Ajmer and was reappointed *sadr-i-kul* at the death of *sadr* Rizvi Khan in 1681.

## **Titles**

Like other Mughal nobles the *sadrs* too were given high sounding titles in accordance with dignity of the post. Being associated with *madad-i-maash* grants to the religious and quasi-religious officers and other individuals the titles obviously bore religious connotations. These were inscribed on *sadr's* seal or mentioned in the contents of *sanads* and *parawanos* relating to grants issued from his office.<sup>26</sup> Some time a Quranic verse was inscribed around the seal of a *sadr* indicating the act of charity as a virtue sanctioned by the *Quran*. The seal of *sadr-us-sudur* Rizvi Khan affixed on an imperial *farman* issued in 1077/1666 granting 100 bighas of revenue-free *madad-i-maash* land in *pargana* Mohan, *sarkar* Lucknow, *suba* Avadh to musammat Shahi and others bears this.<sup>27</sup> An imperial *sanad* dt. 20 Shaban 39 RY/1106 (1695) appointing Shaikh Karimulla as the *qazi* of *pargana* Fatehpur,

*sarkar* Kara, *suba* Kashmir refers to various titles attributed to the *sadr-i-kul*.<sup>28</sup> There is a long list of titles usually reserved for the *sadrs*.<sup>29</sup> The usual address of the *sadr* as reflected in chancellery documents were : *sadarat panah, siyadat wa sadarat panah sadr-us-sudur, sadarat wa sharafat dasigah*.<sup>30</sup> These titles merely represented the feudal spirit of the age dominated by the religious ideals. They did not affect in any way the mode of grants given to the non-Muslims.

The following were appointed *sadr-i-kul* or *sadr-us-sudur* during the reign of Aurangzeb.

1. Syed Hidaytullah Qadiri (1658-March 1660). The *sadr* belonged to the family of the Sayyids. His father Sayyid Ahmad Qadiri was *sadr-i-kul* of Jahangir. Syed Hidayatullah was for some time *diwan* at Qandhar before he was appointed *sadr-i-kul* towards to end of Shahjahan's reign with a rank of 2500/200.<sup>31</sup> On Aurangzeb's accession no change was made and the *sadr* was allowed to continue with the same rank till 1660. It appears that the *sadr* incurred Aurangzeb's displeasure for not performing his duties satisfactorily and he was removed from service giving place to Shaikh Mirak shah Harvi.<sup>32</sup> According of Kazim the *sadr* sought retirement on account of his failing health due to old age.<sup>33</sup> Some existing *madad-i-maash* documents bear his seal.<sup>34</sup>
2. Shaikh Mirak of Herat (March 1660-November 1661). The *sadr* belonged to the family of the *ulama*, being the son of Qazi Aslam who, under Jahangir, was a *mufti* of the royal camp.<sup>35</sup> Qazi Aslam's family was also famous for coaching royal princess.<sup>36</sup> In 2 RY of Aurangzeb the *sadr* received a *mandab* of 3000 and subsequently succeeded as chief *sadr* which office he held for a short period.

3. Qalich Khan or Qulij Khan or Abid Khan (November 1661-May 1667 and July 1681 to October 1681). He belonged to the scholarly family of Samarqand, being the son of Allama shaikh of Samarqand. Before settling in India Abid Khan was *qazi* and *shaikh-ul-Islam* in Bukhara.<sup>37</sup> He was a good soldier and fought against the army of Shahjahan led by Raja Jaswant Singh in the war of succession.<sup>38</sup> On Aurangzeb's accession he received a rank of 3000/500 and was appointed *sadr-i-kul* in 1661 A.D.<sup>39</sup> In 7 RY his rank went up to 4000/1500 due to his military acumen.<sup>40</sup> The title of Qalich Khan or Qulij Khan was bestowed on him in the capacity of a military commander in Rajputana expedition.<sup>41</sup> However, the soldier *sadr* incurred Aurangzeb's displeasure for a short time but soon found favour with him again, and was appointed governor at Ajmer to look after Rajputana states. Subsequently he was appointed *sadr-i-kul* for the second time on the death of *sadr* Rizvi Khan in 1681.<sup>42</sup> In spite of holding the highest religious position the *sadr* fought for the imperial army in its campaign against Bijapur. He was the grandfather of Asaf Jah Nizamulmulk who later became *wazir* of Muhd. Shah and then *nizam* of Deccan.<sup>43</sup> We find *sadr's* seal on the right side in the endorsement (*pusht*) to an imperial farman issued in response to a petition of *musammat* Masuma relating to her forcible dispossession from *madad-i-maash* grant located in *mauza* Laundri, etc. in *pargana* Panipat, *sba* Shahjahanabad.<sup>44</sup>
4. Sayyid Rizvi Khan Bukhari (May 1667-June 1681) belonged to the family of the *sufis* (*pirs*). His was the second son of famous *sadr* of Shahjahan, Miran Sayyid Jalal Bukhari who was persuaded to relinquish the saintly life in favour of constructive work.<sup>45</sup> Sayyid Rizvi started his career with an initial rank of 1000/200.<sup>46</sup> For some time he was *daroga-i-kitabkana* of Shahjahan's library.<sup>47</sup> In 28 RY of Shahjahan he rose to the rank of 2500/500 with the post of *bakshi* and

chronicler at Ahmadabad.<sup>48</sup> Under Aurangzeb in 2 RY a cash allowance (*wazifa*) of Rs. 12,000 per annum was granted to him.<sup>49</sup> In 5 RY he got the rank of 2500/400 and in 9 RY was appointed *diwan* of Begum Sahiba Jahanara Begum.<sup>50</sup> In 10 RY he was offered the chief *sadarat* with a rank of 3000/500,<sup>51</sup> which he held till 1681. Sayyid Rizvi's seal is found on various *madad-i-maash* documents relating to *suba* of Bihar,<sup>52</sup> Avadh,<sup>53</sup> Allahabad<sup>54</sup> and Shahjahanabad.<sup>55</sup>

5. Sharif Khan (October 1681-October 1682) was imperial *sadr* for about one year. According to *Maasir-i-Alamgiri* he became '*sadr* of Hindustan' vice Qalich Khan in 1092 A.H./June 1682 and died on Wednesday 12 Shawwal 1093/1682.<sup>56</sup>
6. Shaikh Makhdum Munshi, Fazil Khan II (October 1682-December 1688). Originally hailing from Thatta (Sind), he was appointed incharge of *dar-ul-insha* (department of drafting farmans) in 23 RY/1679.<sup>57</sup> Known as *munshi* of Aurangzeb with a rank of 500 he steadily rose to 1500 zat with the title of Fazil Khan II in 26 RY/1682 and was favoured with the post of *sadr-i-kul* which he held till his death.<sup>58</sup> On his appointment as *sadr*, *munshiship* was offered to one Shaikh Abdul Wali.<sup>59</sup> In the capacity of a *sadr* his seal dt. 1096/1686 is given in *nasta'liq* character in one of the *farmans* for grant of 50 bighas of *madad-i-maash* land to one Shaikh Jan Muhd., a great scholar in *pargana* Shahzada Hinjrau in the suburbs of Punjab.<sup>60</sup> The *parwana* in this regard was issued on 29 Zilhij 30 RY/1688.<sup>61</sup> A *sanadi* dt. 1096/1684 granting 100 bighas of land as *madad-i-maash* to musammat Kamal and others in *pargana* Soorwan Palsi, *sarkar* Saharanpur, *suba* Shahjahanabad bears *sadr-us-sudur's* seal.<sup>62</sup> The *sadr's* seal is also found on various *parwanas* relating to *madad-i-maash* grants in the *suba* of



Bihar.<sup>63</sup> The *sadr* died in the great plague which spread in Gujarat in 1099/1688 affecting the royal camp also.<sup>64</sup>

7. Qazi Abdullah or Khawaja Abdullah (1698)<sup>65</sup> was *qazi-i-urdu* for some time before he became *qazi-ul-quzzat* in 1095/May 1685.<sup>66</sup> In 1108/February 1698 the *qazi* was offered the post of *sadr-i-kul* also a very short time in the absence of a regular *sadr* due to Aurangzeb's wars in the Deccan.<sup>67</sup> As stated elsewhere in the capacity of *qazi-ul-quzzat* he had tried to dissuade Aurangzeb from invading Golconda but was reprimanded. Unlike imperial *qazi* Shaikh-ul-Islam he did not resign and rather reluctantly fell in line with Aurangzeb's wishes. Subsequently, he accompanied the emperor in the Deccan campaigns. We are not aware of the exact rank held by him as an imperial *sadr* but in view of the fact that he held the post of *qazi-ul-quzzat* simultaneously and disposed of many petitions,<sup>68</sup> it can be safely assumed that his position might have been considerable in the Mughal nobility.

8. Muhd. Amin Khan II Chin Bahadur Itimaduddaulla (May 1698-1707). The *sadr's* family had earlier migrated from Bukhara. M. Amin Khan was appointed *sadr-i-kul* in 46 RY with a rank of 2000/1200.<sup>69</sup> His success in the Deccan earned him the rank of *bahadur*<sup>70</sup> and in 51 RY/1707 he received the title of *chin bahadur* with a rank of 4000/1500,<sup>71</sup> subsequently increased to 4300/1500.<sup>72</sup> He was basically a military commander who during Mughals' war operations was entrusted with the task of closing the entrance and exit of the Maratha army in 46 RY/1702 in Deccan.<sup>72</sup>

From the foregoing account following conclusions can be inferred. First, contrary to imperial wazirs<sup>74</sup> who were mostly shias, Aurangzeb did not encourage the appointment of any shia for the post of the *sadr*. This was probably deliberately done to show respect for sunnism and to subscribe to the religious headship 'of

the right faith' both among the theologians including religious office holders and the sufis. However, sunni orthodoxy did not mean any sectarian outlook of the *sadr*.<sup>75</sup> Secondly, the emperor does not appear to have displayed any strong predilection for any special region in the appointment of *sadr-i-kul*. While we know that most of the imperial *qazis* under Aurangzeb belonged to Gujarat region alone, yet the *sadrs* hailed from various regions and provinces. Sadr Shaikh Mirak's family came from Herat, Qalich Khan or Qulij Khan's from Samarqand, Sayyid Rizvi and Muhd. Amin Khan II's families had long migrated into India from Bukhara. Sadr Fazil Khan came from Thatta (Sind), Sayyid Hidayatullah Qadiri, Sharif Khan and Khwaja Abdullah belonged to other parts of the Mughal empire. Thirdly, all the *sadrs* did not necessarily belong to the class of the theologians, although a few of them were famous for learning.<sup>76</sup> In their appointments Aurangzeb was probably guided more by their administrative capability and even military genius than mere religious background or scholarship. While Sayyid Hidayatullah Qadiri, Qalich Khan and Sayyid Rizvi Khan Bukhari were descendents of *sadrs'* families, the rest of them came from other walks of life. Fourthly, as the *sadrs* were brought within the framework of the nobility there was professional mobility among them also and at several occasions we could see them moving from one post to the other. Some of the *sadrs* were experienced soldiers and took active part in war operations. A few of them were *diwans* and governors before they were given a steady increase in their rank.<sup>77</sup> The foregoing account rejects the argument advanced by some scholars that religious-cum-judicial class was solely confined to its own sphere and that these functionaries were not allotted any duty outside their jurisdiction.<sup>78</sup> Since all the *sadrs* were mansabdars of 1000 *zat* and above, it could be assumed that they were expected to perform any duty as assigned to other members of Mughal nobility by the emperor. The *sadr* some times escorted the foreign dignitaries when they arrived in India. *Sadr-us-sudur* Abid Khan went to receive Husain Pasha, the fleeing Governor of Basra,

at the Lahori Gate of Agra and conducted him to Aurangzeb on 11 Safar 1079/7.1.1669.<sup>79</sup> The *sadr* was also asked to accompany the members of the royal family during their visits. Sometimes the emperor reposed so much confidence that once M. Amin Khan was directed to escort princess Zinat-un-Nisa Begum from Islampuri to Bahadurgarh.<sup>80</sup> He also directed a *sadr* to keep a close watch on a particular noble who was suspected for conspiracy with Prince Shah Alam during the siege of Bijapur in 1686.<sup>81</sup> According to *Nuskha-i-dilkusha*, when Aurangzeb pitched his camp in 48 RY/1705 one kos from Wakinkheda (Wakinkhira),<sup>82</sup> Sadr Amin Khan II (Chin Bahadur) was ordered among other commanders to raise mounds commanding the fort and entrench it.<sup>83</sup> The *sadr-us-sudur* was also entrusted with the duty of expelling the enemies in 1706.<sup>84</sup> *Sadr-i-kul* Qalich Khan was an experienced soldier who had earlier fought against the imperial army led by Maharaja Jaswant Singh.<sup>85</sup> Later the *sadr* fought in a campaign against Bijapur and was engaged in trenches in 1686.<sup>86</sup> Muhd. Amin Khan, the last *sadr* of Aurangzeb was appointed second *mir bakshi* with a rank of 6000/6000 in the reign of Farrukh-Siyar.<sup>87</sup> Khwaja Abdullah was known for his soldierly qualities, while Khwaja Abid Khan (Qalich Khan) was an administrator who was vested with governorship of Rajputana with head-quarters at Ajmer in 10 RY of Aurangzeb.<sup>88</sup> Similarly before becoming imperial *sadr*, Sayyid Rizvi Khan Bukhari was *diwan* of Jahan Ara Begum in 9 RY/1665-5 with a rank of 2500/500.<sup>89</sup>

## Functions

The primary functions of the imperial *sadr* was to recommend the revenue-free assignment of land known as *madad-i-maash* and each grants called *inam* to the deserving individuals and institutions. A small team of officers was provided to carry out *sadr's* orders. Although the official machinery for the *sadarat* was not an elaborate one as it was with other departments yet we find references to officers viz., *diwan-i-saadat*<sup>90</sup> and *peshkar*.<sup>91</sup> In

general qazis, mir adls and other office holder grantees who were beneficiary of sadr's bounty were also associated. While *aimma-i-nawis*<sup>92</sup> was entrusted with execution of sadr's orders, some times *sadr-i-inas*<sup>93</sup> acted within the sadarat on behalf of the ladies. However, it was personality of the sadr which carried more weight than the official machinery whose work was to implement sadr's directions. Once the grant was finally made through a definite set-procedure, it became the responsibility of the *sadr* to supervise that grant, renew or confirm the old grant, and, wherever necessary, to resume the grant in accordance with the imperial orders. The recipients of such grants have been classified into different categories at different times,<sup>94</sup> However, Abul Fazl's description of the four categories of recipients which reflects the practice prevailing under Akbar had very much continued under Aurangzeb also. The deserving recipients could be "(a) enquirers after wisdom who have withdrawn from all worldly occupations for the sake of searching after true knowledge, (b) those who toil and practise self-denial, (c) those who are weak and poor and have no strength for enquiry and (d) those honourable men of gentle birth who, for want of knowledge, are unable to provide for themselves by taking up a trade."<sup>95</sup> Thus the scope for *madad-i-maash* grants was not only limited to those possessing racial superiority among Muslims viz., traditional *sayyids* and *shaikhs* but was also extended to the poor, old people; women-elderly, pious or widows; non-Muslims; *sajjada nashins of dargah or khanqah*; *sanyasis or brahmans* of the *maths* or temples. The grant given to these people was without any obligation of service except that the grantee was expected to wish the prosperity of the emperor and the ever-lasting empire.<sup>96</sup>

Another group which received *madad-i-maash* grants in land and cash or sometimes both consisted of those people who rendered some religious or judicial service, such as a local *sadr*, *qazi*, *mufti*, *muhtasib*, *mutawalli*, *khatib*, *muezzin* or *imam* of a mosque. The grants given to these officers were in lieu of their rendering service

in the respective fields. However, *madad-i-maash* given to them cannot be termed purely conditional because even after the exit of the concerned grantee from the office, the grant normally continued in his name at least during his life-time. Sometimes we find even the sons, widows and relatives of the deceased office holders enjoying *madad-i-maash* without any service, subject to confirmation by the *sadr*.<sup>97</sup> As the emphasis and respect on the observance of the *shariat* increased during the reign of Aurangzeb, a larger number of personal holding these posts emerged with a corresponding increase in the number of *madad-i-maash* grants given to them in land or in the form of cash allowance.<sup>98</sup> In view of this development the importance of the function of *sadr's* office appears to have increased considerably. The *sadr* was endowed with comparatively ample patronage to enquire, verify and recommend suitable *madad-i-maash* for the appointees. However, it would be wrong to infer that with more religious and judicial appointments and *madad-i-maash* the *sadr's* office tended to tilt in selection of orthodox theologians. There is no direct reference with us to suggest that the imperial *sadr* was, at any stage, associated either with the demolition of new Hindu temples or imposition of *jizya* or even disbursal of amount collected from *jizya*. Strangely enough, these measures were apparently mooted by the more orthodox section of the Muslims i.e. the *ulama* which included the *qazis* also. Aurangzeb appears to have considered it more prudent to consult the theologians and *qazis* on such matters due to his commitment for deference to the *shariat*.<sup>99</sup>

It is also wrong to assume that the *sadr* by recommending and supervising *madad-i-maash* grants both in land and cash to the religious and judicial officers became their appointing authority.<sup>100</sup> The officers could be placed subordinate to the *sadr* in the sense that they were usually recommended for appointment by the *sadr* and received their subsistence through his office. A careful examination of the *farmans* and *sanads* of their appointment and

*madad-i-maash* grants enables us to make an overall assessment of the mechanism involved in the whole process. The emperor kept with himself the prerogative of appointing and removing any officer including the religious and judicial officers of the empire at his discretion. He was the sole authority to resume or cancel the *madad-i-maash* grant even without the consultation of the *sadr*. The post as well as the grant was non-hereditary and for the lifetime of the appointee-cum-assignee. Special circumstances could demand confirmation of renewal of the grant in the period of the same emperor or at the succession of each new ruler<sup>101</sup> or several times in the lifetime of the grantee for the purposes of enquiry.<sup>102</sup> As a matter of fact if the officer could be removed, the grant could also be liable to resumption. Since the office was dependent on *madad-i-maash*, the latter became more important. The grant, being essentially religious in character was to be regulated under the overall supervision of the imperial *sadr*.

### **Procedure for Grants**

The broad guidelines for making *madad-i-maash* grant through the seal and endorsement of the *sadr* has been explained in Ain 19 on *suyurghals*.<sup>103</sup> Our sources reveal that under Aurangzeb the procedure for religious grants followed a set pattern but simultaneously it became more elaborate. According to Kazim, the *sadr-us-sudur* took emperor's orders on religious grants at a special meeting in the *diwan-i-khas*<sup>104</sup> on (a) proposals sent by the provincial *sadrs* (*sadr-i-juz*) themselves or recommendation of other officers and influential people forwarded through the *sadr-i-juz* to the *sadr-us-sudur* or to the emperor and (b) on *sadr-us-sudur's* own recommendations. A number of documents and those preserved in record office, Allahabad<sup>105</sup> and an official manual<sup>106</sup> throw light on the elaborate procedure involving method of checks right from the origin of a grant in the imperial court down to the actual settlement of the grantee in his possession. To begin with a report (*fard-i-*

*haqiqat*) stating a deserving case alongwith necessary recommendation of the *sadr* was submitted to the imperial court. After it had been received at the court and recorded in the register (*siyaha-i-waqai*), it was presented to the emperor. On these proposals emperor's order were taken. Thereafter the imperial *sadr* issued on order for the preparation of the *farman* known as *farman-i-sabti*. In accordance with this *farman* subsequent *sanads* were issued from *sadr-us-sudur's* office.<sup>107</sup> The *sanads* of *sadr-us-sudur* were referred to as *sanad-i-dargahi* and served as confirmatory orders.<sup>108</sup> The issue of *sanad-i-dargahi* set the process of other subsequent *sanads* issued by the *sadr-i-suba* on the back or at the end of the document known as *zimn*.<sup>109</sup> Sometimes separate *parwanas* referring to the contents of the *farman* along with the date on which it was issued directed the local officials to comply with the imperial orders. These *parwanas* mostly relate to confirmation or renewal of the old grant or forbidding the officers from encroaching on the land grant.<sup>110</sup> The fact that the emperor consulted the *sadr* was mostly recorded on the *zimn* of the *farman* or *sanad* and was also manifest from the *sadr's* seal and the main contents of the relevant *sanads* and *parwans*.<sup>111</sup> Some times the *sanad* of *sadr-us-sudur* was issued with a separate *sanad* on the same subject by *diwan-i-ala*.<sup>112</sup> The two *sanads* went hand in hand. The *pargana* officials were always kept informed of the revenue-free assignments with or without service.<sup>113</sup>

While recommending a person for a suitable grant the *sadr* enquired into the financial condition of the prospective recipient and assessed his needs.<sup>114</sup> The *sadr* was independently equipped with holding enquire into existing *madad-i-maash* grants to ascertain their genuine nature.<sup>115</sup> While some of the aspiring grantees of *madad-i-maash* with or without office were presented to the emperor through the *sadr* for personal satisfaction yet in most cases the *sadr* was asked to conduct enquiries before orders for grants were issued.<sup>116</sup> At the death of imperial *qazi* Abdul Wahhab at

shahjahanabad, *sadr-i-kul* Rizvi Khan as directed to ensure the presence of Shaikh-ul-Islam at the royal camp (*urdu-i-mualla*) with imperial honours for the post of imperial *qazi* and suitable *madad-i-maash*.<sup>117</sup> Inayatullah Khan recommended the case of a Sayyid leader Mir Nasiruddin to Aurangzeb for *madad-i-maash*. A directive was issued to Khwaja Adham, the *sadr* of Burhanpur to make enquiries about Sayyid's resources and his right to state aid as also send a report so that an imperial *farman* and subsequent *sanad* by the *sadr-us-sudur* could be issued.<sup>118</sup> The imperial directive was followed up but Mir's reply displeased the *sadr* and the matter was dropped.<sup>119</sup> Mukhlis Khan, the second *bakshi*, recommended one Sultan Mahmud Sayyid for a suitable grant. The recommendation which was probably referred to the *sadr* could not materialise as the candidate was not found to be deserving.<sup>120</sup> Mir Murtaza Wa'iz could neither be appointed *muhtasib* nor favoured with the *madad-i-maash* grant as his case was not supported by the *sadr*.<sup>121</sup>

It was the duty of the *sadr* to inspect and verify the records of grant holders and on the basis of such an enquiry confirm renewal of the grant.<sup>122</sup> The *sadr* also renewed and confirmed the earlier grant on the basis of (a) previous documents shown to him in original or on copies attested by *teh qazi*<sup>123</sup> or (b) on the recommendation of provincial *sadr (tajwiz-i-sadr-i-juz)*<sup>124</sup> who used to keep an inventory of *madad-i-maash* grantees of land and of *wazifa* holders in the area of his jurisdiction and sent regular reports to the *sadr-us-sudur*.<sup>125</sup> At times renewal and confirmation was also done on the basis of administrative order (*hukmnama*) of important officers or by a memorandum (*yadasht-i-waqai*) or by imperial order (*hasb-ul-kukm*).<sup>126</sup> In case of loss of a *sanad* the grantee sometimes sent a petition signed by the eminent people of the area, attested under the seal of the *qazi*, certifying that the grantee or his ancestors possessed the *madad-i-maash* grant and as such his claim was genuine.<sup>127</sup> Such petitions known as *mahzars*<sup>128</sup> were quite common in the period. Since the grant documents were required to



follow a set procedure and to pass through various offices for endorsement it was probably easier to locate the old grant.

After complying with these formalities *parwana* containing confirmatory order or renewal was issued from the *sadr's* office. In case the grant was resumed but was to be restored on the basis of proof given, a separate *parwana* was issued from the *sadr's* office by which *muqarrari* land<sup>129</sup> was again converted into *madad-i-maash*.<sup>130</sup> The following examples will amply illustrate the practice prevailing in period under study. A *parwana* dt. 16 Ramzan 26 RY/14.4.1683 containing orders for restoration of 40 bighas of fallow but cultivable land (*zamin-i-uftada laik-i-ziraat*) was issued in the name of *musammat* Alam Khatun, widow of Dilawar Khan, in *pargana* Batawal in Khandesh as *madad-i-maash*. The grant was certified as of old and was confirmed under the seal of *sadarat panah fazilat dastgah sadr* Mualana Fath Muhd.<sup>131</sup> Two *parwanas* dt. 11 Muharram and 20 Muharram of 12 RY/11<sup>th</sup> and 20<sup>th</sup> June 1669 respectively under the seal of *sadr-us-sudur* Rizvi Khan Bukhari relates to renewal of a grant as *madad-i-maash*, the *sanad* of which was lost.<sup>132</sup> The previous grant of 199 bighas from V. Mohanpur and *chak* Khusro settled in the names of sons and heirs of Shaikh Abdul Barakat as *madad-i-maash* for subsistence and expenditure of *khanqah* was renewed but while renewing the grant it was reduced to 180 bighas with exemption from taxes and other demands.<sup>133</sup> The petition for renewal and confirmation of old grant to the emperor was signed and sealed by the *sadr-us-sudur* himself.<sup>134</sup> In another *farman* of Aurangzeb issued on 8<sup>th</sup> Muharram 1077/1666 a grant of 100 bighas of land in *pargana* Mohan, *sarkar* Lucknow, *suba* Avadh as *madad-i-maash* was renewed in the names of *musammat shahi* and others.<sup>135</sup> The grantees stated that in the past they were enjoying 150 bighas of land but the *sadr* upheld the reduction of 50 bighas. The *farman* was issued through the seal of *sadr-us-sudur* Rizvi Khan Bukhari.<sup>136</sup> A grant of 60 bighas of land to Shaikh Qutb, son of Shaikh Muhd. in *pargana* Haveli Lucknow, *sarkar* Lucknow,

*suba* Avadh originating in 977 A.H. was renewed and confirmed in the names of the heirs of the Shaikh on 11 Rajab 6 RY/1043 A.H. after adequate proof (*hazir amad wa shahadat darand*).<sup>137</sup> One Sayyid Husain, heir of Sayyid Abdul Qadir, presented himself before the *sadr*, gave proof of previous grant and was confirmed in the grant in *pargana* Sandila, *sarkar* Lucknow.<sup>136</sup> A *madad-i-maash* grant given as early as on 29 Shahr Rabi-us-awwal 983 A.H. each to a *qazi* and a *mutwalli*, was continued in the period. We find their heirs present in 1062/1652 and the grant was renewed and confirmed in their names.<sup>138</sup> Another grant of 135 bighas given to Sayyid Hussain, and others in accordance with the imperial *farman* of 6 RY of Shahjahan as *madad-i-maash* in *mauza* Aswal, *pargana* Hisahour (Baharaich) was renewed and confirmed after adequate proof on 9 Shahr Rajab 11 RY of Aurangzeb/1079 A.H.<sup>139</sup> Similarly on receipt of a certificate from *sadr-i-suba*, 420 bighas of *madad-i-maash* land was confirmed in the name of Bibi Hafiza, and others on 17 Rajab Rubi-us-Sani 40 RY/1695.<sup>140</sup> There are quite a number of documents in which heirs of the deceased grantees presented themselves before the emperor, *sadr* or *diwan* and asked for renewal and confirmation of old grants after giving sufficient proof.<sup>141</sup>

### Cash Stipends (Wazifa)

Apart from revenue-free land grants sometimes, the *sadr*, as also other influential officers, recommended deserving cases for cash stipend (*wazifa*) to the emperor who issued a *farman*.<sup>142</sup> Sometimes such recommendations were made to the prince or princess who issued a *nishan*.<sup>143</sup> The *sadr's sanads* were issued in accordance with the imperial *farman* or *hasb-ul-hukm* or *nishan*. The allowances were in the form of *rozina* or *yaumia* (daily), *mahyana* (monthly) or *saliyana* (annual) as per directives contained in the *sanad* or any other earlier order in this regard. The cash grant of *wazifa* so sanctioned was also usually called *madad-i-maash* during this period.<sup>144</sup> The procedure followed was almost the same as in

case of revenue-free land grants except that confirmation of *diwan* was considered most requisite in these cases as no money could be withdrawn from the treasury without his permission.<sup>145</sup> An instance is recorded when the newly-appointed governor of Gujarat, Mukhtar Khan issued an order in 1093/1682 to the *diwan-i-suba* for the prompt payment of *wazifa* from the treasury to the stipend holders as settled in accordance with the court sanads.<sup>146</sup> The *rozinadars* were also directed to present themselves before the governor or the *diwan* whenever the latter passed through their area.<sup>147</sup>

Although amount of stipend was fixed, it was liable to increase or reduction at the time of confirmation or renewal.<sup>148</sup> The stipend was usually small ranging between annas 4 per day and Rs. 50 per month.<sup>149</sup> Exceptionally a big amount was also allocated depending upon the needs of the person concerned.<sup>150</sup> A reference in *Maasir-i-Alamgiri* states that in the vast empire a good number of persons consisting of scholars and teachers were provided cash stipends according to their conditions.<sup>151</sup> In 1678 teachers who were appointed to educate the Bohras of Gujarat were given suitable stipend as *madad-i-maash* from the treasury through the office of *sadr-us-sudur*.<sup>152</sup> Accordingly 3 teachers and 45 students were added to the existing strength.<sup>153</sup> There are numerous examples of cash allowances given as *madad-i-maash* to the teachers and students through the *sadr*.<sup>154</sup> A few scholars engaged in compiling *Fatawa-i-Alamgiri* also received cash stipends.<sup>155</sup> At the recommendation of *sadr* Shaikh Mudh. Akramuddin expenses for a teacher and for students of Sundrah in *parganas* of Sanvali and Mitha were granted from the revenue of villages for education in the *madrassa* of Hidayat Baksh.<sup>156</sup> A few *dargahs* which maintained a *madrassa* from the overall *madad-i-maash* used to disburse cash allowances to the students and teachers as their *madad-i-maash*.<sup>157</sup> Incidentally, Aurangzeb is said to have confiscated a building belonging to the Dutch in Firangi Mahal located in Lucknow and made it over to the scholars for a *madrassa*.<sup>158</sup> These cash grants

reject Bernier's reported remarks on the famous 'lament' of Aurangzeb for paucity of good teachers or uselessness of education.<sup>159</sup>

The cash stipend as *madad-i-maash* was also given in the form of temporary subsistence to the religious or judicial office holders till they got a regular *madad-i-maash* from the office of the *sadr-i-juz*.<sup>160</sup> Sayyid Muhd. Ghaus was appointed *qazi* of Cuttack in 1665 on a *rozina* of Rs. 4.<sup>161</sup> A *parwana* issued under the seal of *sadr-us-sudur* Rizvi Khan made a grant of Rs. 8 as *yaumia* plus Re. 1 as additional *yaumia* from the treasury of Aurangzeb, to *qazi* Mulla Ahmad Sherwani by way of *madad-i-maash*.<sup>162</sup> Shaikh Adam, *muezzin* of the mosque of Shaikh Turani, was sanctioned 2 tankas per day from the treasury of Burhanpur through the medium of *sadr* Nizamuddin Ahmad.<sup>163</sup> It appears that a few of the grantees managed to get a regular grant *madad-i-maash* in revenue-free land in lieu of their cash stipends.<sup>164</sup>

The attendants of the *dargah* also received cash stipends as *madad-i-maash* from the overall revenue assigned. The disbursement was made by the *mutawalli*. Sometimes bills for payment were passed by the *sadr-i-juz* also. A report from Ranthambore speaks of limited funds and unlimited *yaumiadars* attached to the *dargah* of Muinuddin Chishti at Ajmer.<sup>165</sup> Monthly allowance of one Lall Ballab, *daroga-i-Iangarkhana* at the Rauza-i-Munawara (tomb of Dilras Banu Begum) was raised from Rs. 20 to Rs. 30 as *madad-i-maash*.<sup>166</sup> We find a petition of 1071/1666 from one Fathullah asking for some monthly allowance as *madad-i-maash* for his services at the mausoleum of Rabia Durrani. The petition was endorsed by the *diwan-i-buyutat*.<sup>167</sup> We also find a reference to a daily cash allowance given to one Muhammad Zaman, superintendent and physician of hospital (*dar-ul-shafa*) at Aurangabad. The physician was exempted from attendance.<sup>168</sup> It is a

well-known fact that the royal charities included free kitchens and free hospitals for the poor and the needy.

### Protection of Grants

It was the duty of the *sadr* to protect the lands of the grantees from being encroached either by the local officials or jagirdars if it was within or near their jagir or by influential zamindars or others in order to confirm the spirit in which these grants were made.<sup>169</sup> Under imperial regulations governing such grants the grantees were not to be disturbed on account of any *abwabs* or customary dues. Similarly, the *wazifa* holders were also immune from any kind of deductions in their allowances. Separate *sanads* and *parwanas* were issued through the seal of the *sadr* to reassert the special treatment to *madad-i-maash* grantees. The grantees were directed to approach the *sadr* or *diwan-i-suba* for their *sanads* or alternatively, local *qazi* of the area as per imperial order issued in 1100/1689 in this regard.<sup>170</sup>

The usual practice was that the grantee after getting the *sanad* or *parwana* from *sadr-i-juz's* office, asked for settlement as defined in the grant. The assignee was fixed in land for settlement (*arazi*) in accordance with the details given in the *zimn*, after proper measurement.<sup>171</sup> Such a practice was commonly known as *shakbandi* or *chakbasta* which was usually done with the help of land assigned (*paimuda wa chakbasta ba tasarruf-u-guzrandan*).<sup>172</sup> The *chaknama* was more elaborate in as much as it gave detailed description of the land assigned. Sometimes the settlement was done in consultation with the *chaudharis* and *qanungos* also.<sup>173</sup> For this reason we find the *sanads* of *madad-i-maash* addressed to various local officials including the *mutasaddis*, *karoris* and *qanungos* because it was their duty to demarkate the boundaries of the cultivable land and extent of the fallow land in the particular area. The process of measurement was settled on the authority of *diwan's* confirmatory order. A *farman* of 22 Ramzan 25 RY which reached

*sadr's* office on 17 Shaban 1092 A.H. was addressed to *diwan* Azmatullah Khan and referred to settlement of the *madad-i-maash* Igrant of 120 bighas out of which 20 bighas were stated to be by the side of garden in qasba Shahabad while the rest 100 bighas were from *pargana* Pali, *sarkar* Khairabad, *suba* Avadh.<sup>174</sup> *Diwan's* confirmation was also needed in case of restoration of *madad-i-maash* grant (*parwana-i-bahali*). In general practice the *diwan* also fixed his seal as a token of approval along with seals of other officers on *madad-i-maash* documents.<sup>175</sup> While there could be some delay in making possession of land to the grantees, the practice of *chakbasta* obviated their problems. In the first place it deprived the *qazi* of the area of any interference in the *madad-i-maash* grant because full details of arable and fallow land were given in black and white. The local *qazi* was now concerned only with the attestation of *madad-i-maash* documents including *chaknama*. Secondly, the *chakbasta* also helped the administration to consolidate *madad-i-maash* holdings as distinct from *jagir* lands. It also became an important legal document to enable the grantee to move the authorities against assessment of revenue, imposition of cesses or forcible dispossession from the land assigned.<sup>176</sup> Sometimes cases of illegal occupation of the *madad-i-maash* by force or fraud were also brought to the *qazi's* court. In order to keep up the religious sanctity attached to such grants governors and *jagirdars* were not permitted to issue any certificate of possession.

The grant documents invariably exhorted the local revenue officers to desist from realisation of land revenue or demand more than what was specified in the *farman*. They were also directed not to disturb the grantee on account of general cesses or customary dues usually defined as *kul avarijat wa sa'ir ikhrajat wa kul wujuhat*, etc.<sup>177</sup> Some documents referred to remission of particular cesses viz. *qunilgha* (process fee), *peshkash* (presents), *jaribana* (rate for measurement of land), *zabitana* (fee to the collector), *muharrirana* (fee for sealing documents), *muhassilana* (octroi),

*daroghana* (superintending charges), *shikar-o-begar* (hunting and employment without remuneration), *dahnimi* (half of ten or ten halves i.e. 5%), *muquddami* (fee of *muqaddam*), *qanungoi* (fee of *qanungo*) and *zabt-i-harsala* (cost of annual settlement).<sup>178</sup> Despite immunity from taxation there are certain references which suggest that the grantees were harassed by the *jagirdars* or local officers on one pretext or the other. The officers of *diwani* department took first opportunity to levy *mal-a-jihat* and *ikhrajat* in case grant documents were misplaced or grants remained unconfirmed or where the grantees were unable to execute the bond (*muchalka*) before the *qazi* for production of *sanad/parwana*. Sometimes separate *sanads* and *parwanas* were issued to reiterate the immunity from land revenue and other cesses.<sup>179</sup> An imperial *farman* issued in 8<sup>th</sup> RY to Makaramat Khan, *diwan* of Gujarat, speaks of abolition and prohibition of illegal extortions and unauthorised and oppressive practices of some of the officials of Gujarat.<sup>180</sup> A few references indicate partial assessment of *madad-i-maash* lands. In a document dated 1058/1648 we find that out of a total grant of 900 bighas, 476 bighas and I biswa of cultivated land was assessed at the rate of annas 8 per bigha. Later a *parwana* granting remission of revenue was issued. Another document relates to the same region in which *madad-i-maash* lands in village Bhusra and Haibatpur were assessed at Rs. 25 and Rs. 5 respectively.<sup>181</sup> We are not in a position to state whether the revenue was remitted. Five *havellis* of the *math* of Jangambari were assessed by revenue officials and revenue of Rs. 500 was realized from Arjun Mal and a group of *jangam* descendants and deposited in the *bait-ul-mal*.<sup>182</sup> However, on their petition a *parwana* was issued in 1085/1674 to the local officers to return the revenue and confirm the *jangams* in their possession.<sup>183</sup> The officers were also cautioned that they were not to interfere in the *madad-i-maash* given to the *math* in any way. The local *qazi* was also informed of this.<sup>184</sup> These instances indicate that the grantee had a right to approach the *sadr* or the emperor by appearing in person or through the petition for protection of his grant against

collection of any dues or cesses from the land assigned. He could also bring to notice any encroachment made by the *jagirdar* or revenue officials in his land which was usually in the form of a *mohzar*.<sup>185</sup> The petitions were sympathetically heard and orders were issued for redress of their grievances.

### **Grants of Dargahs, Tombs and Mosques**

The *sadr-us-sudur* was responsible for recommending *madad-i-maash* to the religious institutions both of Muslims and non-Muslims. An imperial *farman* issued in 1079/1668 provides for remission of revenue for tombs, mosques and *sarais*.<sup>186</sup> The administration of *madad-i-maash* issued in favour of *dargah*, mosque or tomb was supervised by the imperial *sadr* through the assistance of the *sadr-i-juz* and the *mutawalli*.<sup>187</sup> In some important *darghas* the grant was made in favour of the *sajjada nashins*, although sometimes a *mutawalli* was also appointed to look after the affairs of the *dargah* and distribute the stipends to the attendants at the *dargah*.<sup>188</sup> The grants to the *dargahs* or *khanqahs* were mostly in the form of revenue-free villages (*dar-o-bast*) or large area of land defined in bighas as also in the form of cash allowance. A *parwana* of Muhtashin Khan issued in 49 RY/1705 confers a *salyana* of Rs. 400 on Sayyid Ashraf Jahangir, *sajjada nashin* of the *khanqah* at Rasulpur as *madad-i-maash*. The amount included expenditure on the maintenance of wandering sufis or guests (*sadir-o-warid*) and poor and needy students.<sup>189</sup> The *parwana* of grant from the revenues of *pargana* Nasirabad reached *diwan's* office on 16<sup>th</sup> Zilqada and on the same day it reached *sadr's* office.<sup>190</sup> The exceptional efficiency indicates the official patronage which the *sajjada nashin* might have been enjoying. The procedure also shows that the *madad-i-maash* grants given to *sajjada nashins* were on the same pattern as other *madad-i-maash* grants normally made to the individuals. Sayyid Sadullah, grandson of Shaikh Pir Muhd. Saluni, was granted two villages yielding a revenue between Rs. 7000 and 8000 as *madad-i-*



*maash* and also *haveli* from government accomodation for the establishment of a *khanqah* for the *sufi* and his attendants.<sup>191</sup> Sayyid Husain was *sajjada nashin* at the tomb of Mir Gesudaraz<sup>192</sup> while Sayyid Muhd. was *sajjada nashin* of the tomb of Qutb-ul-Alam during Aurangzeb's period.<sup>193</sup> Both of them were recipients of these grants. There is a reference to another grant in a *farman* dt. Rabi II 1077/October 1666 made in favour of Shah Niamatullah of Firuzpur (Bengal).<sup>194</sup> This grant was in addition to the earlier *madad-i-maash* grant of 400 bighas given by Shahjahan in 1043/1633.<sup>195</sup>

The *sadr* could exempt a *muqarrari* land from assessment and recommend its conversion into a *madad-i-maash* grant if he was satisfied that the expenditure incurred therein was of religious nature. A *parwana* dt. 21<sup>st</sup> Jamadi-ul-Sani 27 RY/12.6.1682 under the seal of *sadr-us-sudur* communicated that on a request having been made to the emperor for grant of exemption from *jama* (revenue assessment), in conection with 390 bighas of land from village Bishanpur Silanthar in *pargana* Bisara, *sarkar* Hajipur, *suba* Bihar in the names of the heirs of Shaikh Fakhruddin on the ground that the expenses were incurred on the *khanqah faqirs* and others, the land was declared by the *sadr* as *madad-i-maash* with exemption from revenue and other cesses.<sup>196</sup> It was also stated that as a result of conversion of grant the recipients should now face no difficulty in meeting the expenditure on the establishment of the *khanqah*.<sup>197</sup> A few Persian documents on display at Lahore Gallery of Central Museum are stated to inform us of an earlier grant of *madad-i-maash* given by Akbar for the *khanqah* of Makhdum Majdudin Haji at Delhi which continued uninterruptedly during the reign of Muhammed Shah.<sup>198</sup> Some flourishing villages in the *sarkar* of Daulatabad in the vicinity of Khujista Bunyad (Aurangabad) were set apart for the expenses of the tomb of Aurangzeb.<sup>199</sup> Various *farmans* and *sanads* issued under later Mughals speak of scontinuanace of the earlier grants for the *khanqahs* and *darghas*.<sup>200</sup> It also appears that several cash grants to *sajjada nashins* given during

this period were converted into village grants assigned to the individual *sajjada nashin* during the period of Farrukh Siyar and Shah Alam.<sup>201</sup>

It has been argued that since the *sajjada nashin* were principal beneficiaries, they became dependent upon royal charity which jeopardized their independent existence. Also with the simultaneous appointment of the *mutawalli* to manage the affairs of the dargah, the Mughal government perhaps gained a leverage in possible interference with the activities of the *sajjada nashin* through the office of the *sadr*.<sup>202</sup> Although by specifying the expenditure on different items viz. free food,<sup>203</sup> lighting of lamps, celebration of annual festival, repairs of the *khanqah* and of the mosque therein, maintenance of a *madrasa*, and disbursal of cash allowances to the *yaumiadaran* through the *mutawalli*,<sup>204</sup> the government could keep a check on misuse of funds, it could also leave the *sajjada nashin* undisturbed to ensure the sanctity attached to his person. There is perhaps no concrete evidence to suggest that any clash ever took place between a *sajjada nashin* whose position was based more on public popularity and the *mutawalli* who derived imperial authority. There is a solitary reference to a dispute over the descendent of a *sajjada nashin*<sup>205</sup> but that takes us nowhere. In another reference to the grievances of the *yaumiadaran* attached to the Chisti *dargah* at Ajmer, relating to paucity of income, we find the appointment of an *amin* to go through the cases of deserving grantees judiciously, bypassing the *mutawalli* also.<sup>206</sup>

Expenditure on construction of new mosques or repairs of old mosques was sometimes incurred on a report from the *sadr* or *qazi-ul-quzzat*. Estimates for construction or repairs of mosques, if not already included separately in the grant were prepared by the *diwan* mostly on these suggestions and submitted to the emperor for sanction who issued orders directly for such expenditure from the treasury to the *diwan*.<sup>207</sup> Each such mosque was provided with a

staff of, *imam*, *muezzin* and *khatib* with a suitable *wazifa* through the seal of the *sadr*.<sup>208</sup> In a slightly later period we find the seal of *sadr-us-sudur* Amjad Khan on a *farman* sanctioning expenditure for a mosque located in *mauza* Jamalpur *parwana* Shahabad, *sarkar* Khairabad *suba* Avadh.<sup>209</sup>

### Grants to Non-Muslims

The *sadr* was also consulted in *madad-i-maash* grants given to non-Muslims. These grants were sometimes mentioned as *inam* or *muqfi* but basically these were covered under *madad-i-maash* because they bore the seal and endorsement of the *sadr* who was fully authorised to deal with such grants. The non-Muslim grantees were mostly Hindu *brahmins*, *sanyasis*, musician, physicians, as also Jains and the Parsees. A number of Hindu priests, scholars and a few *maths*<sup>211</sup> were in regular receipt of such grants. The Mughal rulers showed favours to the *goswamis* of Sri Vallhabhacharya by allotting them revenue-free land as *madad-i-maash*. In a slightly earlier period we find the confirmation of the revenue-free grant of *mauza* Jatipur (Gokul) in *pargana* Mahaban in *suba* Akbarabad under the seal of *sadar-i-jahan* Musavi Khan in 1043/1633.<sup>212</sup> The grant continued without any interruption till the time of Shah Alam when the *mauza* of Gokul was bestowed on the descendant of Tikayatji Maharaj Goswamin Murlidar as *inam* in 1182/1768.<sup>213</sup> The continuance of the grant from Shahjahan to Shah Alam proves that Aurangzeb's *sadr* probably did not disturb or discontinue it. The concessions granted to the *jogis* of Jakhbar in the form of *madad-i-maash* and later for free water for irrigation from Shahnahr for the assigned land with subsequent renewal indicate their cordial relations with the Mughals.<sup>214</sup> We find that by 1660 Anand Nath, the *mahant* at Jakhbar received an additional grant of revenue-free land from Aurangzeb.<sup>215</sup> It has been argued that as a follow-up of an imperial *farman* of 1083/1673 to resume revenue-free lands and allowances given to non-Muslims,<sup>214</sup> the *jogis* lost this concession

for a short time.<sup>217</sup> However, the conversion of resumed land into a lease<sup>218</sup> on fixed basis (*jama-i-istimarar*) in favour of the *jogis* and subsequent restoration of the grant<sup>219</sup> clearly indicate that the *farman* for resumption of lands and allowances to the Hindus, even if applied to this particular grant, was not strictly implemented. Some documents of Jodhpur relate to grants given to *jogis* of the *math* in Mande Khan in *pargana* Didwana, *sarkar* Nagor for the services rendered by Pant Bharti and others in providing free food (*langar*) to the travellers by cultivating 100 bighas of land.<sup>220</sup> The collection (*hasilat*) was exempted according to the usual formula.<sup>221</sup> Documents written between 31 RY and 47 RY (1688 to 1703) repeat these assurance.<sup>222</sup> The descendents of the *jangams* (*sanyasis*) of the *math* of Jangampuri<sup>223</sup> (Benaras) petitioned to Aurangzeb that the five *havelis* of the *math* were assessed and an amount of Rs. 500 was realized from Arjun Mal and a group of *jangams* which was wrong and in violation of the concessions granted to them.<sup>224</sup> After enquiry, the *sadr* issued a *parwana* in 1080/1669 to the local officers to return the revenue and also directed that they should not disturb them in any way in their possession.<sup>225</sup> The local *qazi* who received the *parwana* informed the revenue officials accordingly and thus religious character of the grant was ensured.<sup>226</sup>

There are several grants given to Hindu musicians (*badfrosh*) as *madad-i-maash* through the *sadr* between 1667 and 1685.<sup>227</sup> The names of the grantees were Mohan, Jaideo, Sunder, Lakshman and others in the *suba* of Bihar.<sup>228</sup> The Hindu physicians were also given *madad-i-maash* for their services for the ailing people.<sup>229</sup> Among other individual grantees we find a *parwana* issued in 43 RY of Aurangzeb to the *mutasaddis* of Dhargaon informing them about the grant of two *partan* of revenue-free but cultivable land in the village Malgaon, *pargana* Arandol to one Rangbhatta, son of Nekbhatta as *khairat*.<sup>230</sup> Some other land grants were made to Bhinpat Dubey, Mahesh Jha Brahmin, Dheodatt Bharti, karnami Brahmin, Lila, Brahmin, etc.<sup>231</sup> An interesting feature of the

religious grants to the Hindus was that the area defined in most of the grants was in odd numbers viz. 3 bighas, 21 bighas, 25 bighas, 55 bighas, 61 bighas, 201 bighas, etc. in the *suba* of Bihar.<sup>232</sup> This was perhaps a deliberate move to show respect to the Hindu sentiments. There are numerous *parwanas* for renewal of these grants under the later Mughals.

The Jain community was also favoured with *madad-i-maash* and other religious concessions.<sup>233</sup> An imperial *farman* enjoined upon the officers that the grantees of Satrunjya hill and its temples would be entitled to the income of palitana and that none should deviate from the imperial order.<sup>234</sup> These grants, although given on a smaller scale as compared to these of Muslims and their institutions, point to the fact that the scope of *madad-i-maash* remained extended well during the period of Aurangzeb. The imperial *sadr* perhaps tried to ignore or even evaded the cry of the more orthodox section of the Muslims for giving step-motherly treatment to the Hindus. From these grants we may assume that the *sadrs* of Aurangzeb's period had rather adopted a liberal attitude to Hindus and other non-Muslims in the matter of religious grants.

### **Miscellaneous Functions**

One the minor duties of the *sadr* was to conduct enquiries into the irreligious activities of the individuals by calling for reports from the *qazis* and the *muhtasibs*. An instance is recorded when prince Muhd. Azam Shah reported the irreligious activities (*bidaat*) and wine drinking by one Syed Lal, a *manasabdar*. The matter was referred to the imperial *sadr* for enquiry.<sup>235</sup> The imperial *sadr* once directed the *sadr-i-suba* of Gujarat to produce before the emperor one Syed Shahji who was reported to have indulged in irreligious propaganda.<sup>263</sup> However, there are not many instances of consultation with the *sadr* on record about this because normally in all such religious controversies or heretical conduct of a particular individual it was the imperial *qazi* who was consulted.<sup>237</sup> Emperor's

orders in this regard were sometimes communicated to the governor of the province through the imperial *qazi*.<sup>239</sup> It is also significant to note that on the question of imposing *jizya* on the non-Muslims it was the *qazi* and the *ulama* who were consulted and not the *sadr*. However, a provincial *sadr* could be associated with *amini* of *jizya* because of clubbing of allied functions in the same person.

The *sadr* was sometimes asked to distribute ad hoc charities to the people on some special occasions. Aurangzeb distributed in charity every year a sum of Rs. 1.5 lakh in the month of Ramzan through the medium of the *sadr* and the *qazi*.<sup>239</sup> Similarly charities in the grief-stricken areas due to scanty rainfall or famines were usually distributed through the office of the *sadr*. We find a reference to this in Punjab in a slightly earlier period when free kitchen houses were established in the province and *sadr-i-kul* Sayyid Jalal was commissioned to distribute Rs. 10,000 among the poor and the destitute. When grain became dearer in Lahore in 1088/1678 an additional relief was given in consultation with the *sadr*.<sup>240</sup> On a report from the *sadr* permanent public distributing centres of cooked and uncooked food (*kham wa pukhta*) were established.<sup>242</sup> The *sadr* appointed honest superintendents to distribute food to the poor and the needy. However, such charities were occasional and did not necessarily pass through the *sadr* for all times.

An isolated instance is recorded in *Mirat-i-Ahmadi* when we find the *sadr* being consulted in determining contents for circulation of coins. The controversy had arisen due to different stands taken by the *diwan-i-suba* and the governor and Gujarat. Finally an order was issued to the *diwan* for treating a copper dam equivalent to 14 *mashas*.<sup>243</sup> It seems that in this particular case the *sadr* acted more as an *amin* for a balanced approach on a controversial issue. There is perhaps no evidence to suggest that the imperial *sadr* interfered

in any financial disputes or land revenue matters other than *madad-i-maash*.

### Administrative Regulations

Although charitable grants were essentially of religious nature yet they were governed more by the imperial regulations than by the tenets of the *shariat*. The *madad-i-maash*, whether with service or without any service, was personal and usually for life-time of the grantee only. The grant was subject to confirmation and verification at any stage.<sup>244</sup> Even the confirmed grants were subject to confirmation at the accession of the new emperor because of the fact that at emperor's death old *farmans* and *sanads* ceased to operate. These documents could become valid only when confirmed or renewed by the new emperor. Each assignee of *madad-i-maash* was expected to produce the *sanad* as and when demanded.<sup>245</sup> The practice was known as *tashiha*<sup>246</sup> and such renewal or confirmation was called *tashihnama*.<sup>247</sup> Normally the *madad-i-maash* did not refer to the heirs of the grants, although in some *sanads* issued to *sajjada nashin* of *dargah* or even a priest of the *math* we find the provision for continuance of the grant in the names of the descendants.<sup>248</sup> Such a provision was exceptionally made in the *madad-i-maash* to some individual grantees also.<sup>249</sup> A careful study of the *madad-i-maash* documents reveals that all grants including those containing a provision for continuance needed renewal and confirmation at the death of the original grantee.<sup>250</sup>

As a matter of fact hereditary succession supported by proof was usually respected but such a concession did not make the *madad-i-maash* hereditary at least prior to issue of the imperial *farman* of 1690 A.D. which more or less regulated the succession to the grant. In addition to possible reduction of a *madad-i-maash* grant at the time of renewal, the government had the prerogative to resume the grant at any stage without assigning any reason, although such a step was rarely taken. Occasionally the absence of a

*sanad* or failure to produce the *sanad* or to execute the bond (*muchalka*) attested under the seal of the *qazi* or any other satisfactory proof led to resumption of the grant by the state.<sup>251</sup> Such grants were resumed by the *sadr* after taking imperial orders. Undeserving grants could also be resumed.<sup>252</sup> Qazi Rizvi, *sadr* of Bengal rejected many *sanads* and subsequently cancelled *madad-i-maash* grants claimed on them.<sup>253</sup> The assignees represented to the governor who referred their case to the *sadr-us-sudur*.<sup>256</sup> The *madad-i-maash* grant was also resumed to the *khalisa* and made *muqarrari* if the grantee died or fled without leaving any heir who could represent to the *sadr* or the emperor for renewal and restoration of the grant. Sometime grant was resumed on information that it had been obtained through fraud or forgery of the seals affixed on *sanads* and *parwanas*. One of the charges levelled against *sadr-i-kul* Musavi Khan was that he made grants on the basis of forged documents to undeserving people.<sup>255</sup> In daily reports from Deccan we find such instances where the grantees were alleged to have claimed *wazifa* on the strength of forged documents.<sup>256</sup> The forged documents were sent to the *sadr-i-sudur* for investigation.

Certain complaints of forcible dispossession from the grant were also sometimes reported. A *farman* dt. 4 Shawwal of 16 RY/1642 was issued for grant of a garden with an addition of some more land adjoining it totalling 60 bighas to Fatima married to Arif Muhd, one and daughter of Khan Bibi Rashida who had been forcibly dispossessed from her *madad-i-maash* grant.<sup>257</sup> The grant was restored in village Dekhte, *pargana* Hajipur, *suba* Bihar.<sup>258</sup> Another *farman* dt. 16 Jamadi-u-Sani 28 RY/1654 released half of the resumed land belonging to one Syed Salim and his sons in favour of Sayid Haider in village Khilwat of *pargana* Haveli Hajipur.<sup>259</sup> The *mutasaddis* had resumed this land arbitrarily at the grantee's death.<sup>260</sup> A *parwana* dt. 1061/1650 directed the officers of *pargana* Sandila, *sarkar* Lucknow not to interfere in the *madad-i-maash*. The *chaudhary* to the village was specifically directed to



abstain from unauthorised interference.<sup>261</sup> The local *qazi* tried several such disputes to find out the actual grantee. In a complaint lodged in the court of the *qazi* of Gorakhpur it was alleged by Shaikh Yusuf, the *madad-i-maash* grantee, that one Shaikh had taken unlawful possession of the *farman* granting 200 bighas of revenue-free land and had, therefore, dispossessed him from his rightful claim.<sup>263</sup> As stated elsewhere all *madad-i-maash* grants whether given to Muslims or non-Muslims were, theoretically, non-hereditary and inalienable at least prior to 1690, with full prerogative of the emperor to reduce or even confiscate them without assigning any definite reason. These grants were further governed by official regulations which did not perhaps look to the *shariat* for guidance. Both reduction and confiscation of some grants had already taken place under Akbar and Shahjahan, and under Aurangzeb also some grants in the *suba* of Bengal were resumed when the provincial *sadr* had rejected many of the *sanads*. However, imperial order of 16 RY/1673 referred to by a chronicler relating to confiscation of grants to the Hindus alone seems intriguing and needs examination. Strangely enough, the order was not directly addressed to the *sadr* but to the *diwanis* of the realm who were not directly concerned with these grants. Secondly, the order finds mention, in passing, in the general policy statements aimed at praising the religious achievements of the emperor. Quite likely, our chronicler might have been inspired by the religious zeal to write something which is not fully supported by facts. It is not stated anywhere as to which specific grants were confiscated or resumed nor is there any mention of the manner of enforcement of the order or involvement of the *sadr*.

We find some fresh *madad-i-maash* grants issued or renewed to the Hindus even after the imperial order was supposed to have been enforced. Four grants earlier given during 1660-63 in favour of the Hindus in the *suba* of Bihar<sup>263</sup> appear to have continued as we do not find any contrary evidence to resumption of their grants. A

*sanad* of 5<sup>th</sup> Safar 1102/1690 relates to a *madad-i-maash* grant of 3 bighas of land in the village Bewthak in *pargana* Haveli *suba* Bihar issued in favour of Sheo Datt Bharti.<sup>264</sup> Another *parwana* was issued in 46 RY11703 with the seal of Fidai Khan conferring on one Bhinpat Dubey 61 bighas of land grant as *madad-i-maash* from village Madohabad, *pargana* Mehshi, *suba* Bihar.<sup>265</sup> A land grant of 1098/1688 made in favour of Ramjivan Goshain and his sons as *inam* for building up houses for the Brahmins and the holy mendicants in the vicinity of Benaras points to the ineffectiveness of the imperial *farman* calling for resumption of grants from the Hindus.<sup>266</sup> By a *parwana* dated 6 Jamadi II 30 RY/1686 Pant Bharti, and others who had been cultivating 100 pakka bighas of land in the state of Marwar and rendering services to the travellers by providing them free food (*langar*) were given exemption from the land revenue (*hasilat*) according to set formula.<sup>267</sup> Another grant dt. 7 Safar 33 RY/1688 is addressed to one Dharamnathji, a *jogi* in the *math* of Mande Khan in *pargana* Didwana.<sup>268</sup> Seven other documents written between 31 RY/1688 and 47 RY/1703 repeat assurances of revenue-free charitable land grants.<sup>269</sup> The revenue-free land grants as *madad-i-maash* in favour of Tikayatji Maharaja and his descendants, renewed from time to time, continued without any disturbance till the period of Shah Alam when they were converted into *inam al taghma*.<sup>270</sup> It is also relevant to add that the Parsi physicians of Navsari in Gujarat received *sanads* confirming their grants in 1664 and 1702. In view of this evidence it appears that the imperial order of 1673, if issued at all, was in all probabilities too general in nature. It was not followed up strictly and therefore became defunct for all practical purposes.

### **Significance of the Imperial Farman of 1690 A.D.**

Theoretically, all grants could be increased, decreased or even resumed any time, although normally they were not disturbed. The sanctity of the imperial charity was so much respected that even

a grant which lapsed for 50 years was restored by the *sadr* on satisfactory proof.<sup>271</sup> Under the prevailing practice the grant was renewed in favour of the heirs of the grantee provided the latter could convince the *sadr* of their claims. In addition to this each document contained a directive to the officers to ensure that the grantees were not harassed on account of revenue or cesses or any kind of taxation.<sup>272</sup> However, despite these concessions, the *madad-i-maash* grant could not be treated as an article of personal property. The Mughal Government too always maintained its prerogative of preventing any sale or transfer of *madad-i-maash* rights and the grantees seemed to be fully aware of it. The *madad-i-maash* grant could only be bequeathed subject to confirmation by the office of the *sadr* but could not be gifted away to the relatives or descendants of the grantee. In a reported case where the heirs of a deceased grantee filled a suit for the recovery of *madad-i-maash* land which their father had alienated to some other person by way of gift, the *qazi* who tried the case gave the ruling that the deceased grantee could not legally alienate the land and ordered the restoration of the grant to the legal heir.<sup>273</sup> For all practical purposes the *madad-i-maash* rights were distinct and stood on a different footing from the rights of the intermediary *zamindars*. The recipients of *madad-i-maash* always considered the grant a symbol of imperial patronage and do not seem to have challenged the imperial prerogative of reduction or resumption of these grants any time during aurangzeb's period. Prior to the *farman* of 1690 A.D., there is perhaps no sale deed or transfer deed of *madad-i-maash* holdings registered in the *qazi's* court or attested under his seal.

In 34 RY/1690 A.D. an imperial *farman* was issued defining the line of succession to the *madad-i-maash* grants.<sup>274</sup> The *farmna* which contains regulations for succession after the death of grantee empowered the *sadrs* and the *qazis* to take up disputes on the question of succession and decide the issues in accordance with guidelines defined in the *farman*.<sup>275</sup> It was also stipulated that as the

land given in was *madad-i-maash* was held on loan (*a'ariyat*) and not in complete ownership, its inheritance was to be governed more by administrative regulations than the *shariat* law of inheritance.<sup>276</sup> The line of succession included the daughters also whose share was known as *dukhtari*.<sup>277</sup> The *qazis* were not permitted to interfere in the quantum or quality of land assigned. The predominance of administrative regulations implied that the *madad-i-maash* grants had become more a product of the law of the land (*urfi*) than a mere preserve of any one community.<sup>278</sup>

The *farman* was a turning point in the Mughal agrarian set-up for several reasons. It legalised the common inherent tendency among the grantees to treat *madad-i-maash* as an article of personal benefit. The share from *madad-i-maash* continued to be an additional means of benefit.<sup>279</sup> The periodic confirmation and renewal of the grants were relaxed. The officers did not have any leverage in choosing the descendant to a particular grant. All the complaints of succession arising from local feuds or disputes on account of partition of the shares in the land or usurpation by force or forgery or loss were to be referred to the *qazi's* court or to the office of the *sadr* for settlement. The absence of periodic inspection by the authorities while making the grantees complacent with their holdings also placed some of the smaller grantees who had no link or influence (*wasila*) in a very pitiable condition. Talish records a despicable practice in Bengal about the heirless grantees.<sup>280</sup> In the post-1690 period which witnessed the weakening of the central authority, we find *madad-i-maash* rights acquired by force by powerful people from top down or by local influences from bottom up without any effective remedy from the *qazi's* court.<sup>281</sup>

The impact of the *farman* of 1690 was slowly felt in the early eighteenth century when we find a new phenomenon of *madad-i-maash* grantees treating themselves more or less like the intermediary zamindars in their particular areas began to emerge.<sup>282</sup>

The sale and transfer of such rights, as distinct from ownership, started until it became absolutely difficult to distinguish between the original *zamindari* rights and the new *zamindari* rights acquired as a result of the *madad-i-maash*. However, our sources of the 17<sup>th</sup> century do not prove the hereditary position of the *madad-i-maash* grantees prior to 1690 A.D., for there is perhaps no sale deed or transfer deed of these rights in our sources. The *farman* of 1690 regulated the line of succession to the grant and as such the land allotted to them ultimately acquired a universal value. The hereditary claims on *madad-i-maash* and the weakening of the Mughal central authority provided a base for treating the grants freely in transfer transactions similar to the *zamindari* rights. While such a historical development led to increasing dependence on the *qazi* for attestation and registration of documents as also for settlement of disputes in the specified shares in the grants,<sup>283</sup> it also encouraged the tendency among the grantees to strengthen their holdings by acquiring *zamindari* rights. In the 18<sup>th</sup> century these rights resulted in better economic status which posed indirect threat to the local officers of the sadarat department.<sup>284</sup>

## References

1. The author of Qanun-i-Humayun or Humayunnama divides people into three categories (a) ahl-i-daulat (b) ahl-i-saadat and (c) ahl-i-murad, and states that the *sadr* was entrusted with the distribution of the share of ahab-i-saadat primarily to ahl-i-saadat who were traditional shaikhs and sayyids considered pious and learned. (Khwandamir (tr.) Elliot & Dawson, V, 119-20, 123-4).
2. Allahabad Documents, (Transcript AMU), No. 157, 158, 160, 198; Mughals & Jogs of Jakhbar (ed.) B.N. Goswamy & J.S. Grewal, Simla, 1969, Doc. VII.
3. *Alamgirnama* of Kazim, p. 1102.

4. *Nishan* of Jahan Ara dt. 1051/1641 preserved in Calcutta Museum, *Proceedings of Indian Historical Records Commission*, xxix, pt. I, 1953, p. 108; *Nishan* of Aurangzeb dt. 14 Muharram 1065/14.11.1654 *Mughal Archives*, ed, Z. Shakeb, pp. 27-9; *Nishan* of Dara Shukoh dt. 1066/1656 for 30 bighas of *madad-i-maash* to Sayyid Ghiasuddin in *pragana* Kara, *suba* Allhabad, *Mughal Farmans*, Vol. I, ed, K.P. Srivastava, Doc. XXXIV; *Edicts from teh Mughal Harem*, Vol. I, ed, S.A.I. Trimizi, Doc. XX for a *madad-i-maash* grant of 60 bighas in *pargana* Panipat, *suba* Shahjahanabad dt. 2 Shawwal 15RY/1671 (original preserved in Indian Museum, Calcutta).
5. *Alamgirnama*, p. 1104. cf. many scholars enjoyed the bounty of Zeb-un-Nisa, scholar daughter of Aurangzeb (*Maasir-i-Alamgiri* of Md. Saqi Mustaid Khan, p. 539).
6. *Ain-i-Akbari*, ed. & tr., Blochmann, volume I, Bk. II, p. 278; Allahabad Documents Nos. 2, 165, 168, 174, 176, 178.
7. The word is of Mongol origin and literally means a favour or a grant. Originally it denoted the documents under which a *tuyul* was given (*Encyclopaedia of Islam*, iv, 800). *Suyurghal* has been used for several grants given by Babur (*IHRC*). XXXVI, pt. II, 1961, M. Momin "A *Suyurghal* of Babur" pp. 51-2; *IESHR*, vol. IV Irfan Habib, "Aspects of Agrarian Relations...", p. 220. There is a complete set of rules in *Ain* 19 on *suyurghals* (*Ain-i-Akbari* tr., Blochmann, i, 278-80); *Faramin-i-Salatin*, ed. Bashiruddin Ahmad, Delhi, 1916, Doc. 1. The different names do not change the basic character of *madad-i-maash* in any way.
8. *Ain-i-Akbari* Blochmann, i, 278.
9. Usually for grants given to non-Muslims *inam* or *muqfi* has been used (*JPHS*), 1961. However, there was no definite rule

to this. A *nishan* of Jahan Ara dt. 19 Mehr 5 Ilahi/2.10.1632 used the word *inam* for a *madad-i-maash* grant (Victoria Memorial Museum, Calcutta Doc. XV, Edicts from Mughal Harem (ed, Tirmizi), pp. 82-3.

10. The term became popular under the later Mughals.
11. Used for a few *madad-i-maash* grants given to the widows and the Bairagis in the *suba* of Bihar, Some Mughal Farmans, Sanads, Parwanas, etc. (1578-1802) (ed.) K.K. Datta, Basta 237 dt. 11 Jamadi-us-Sani, 4 RY/1661, p. 90. In Tirhut it signified *madad-i-maash* (Buchanan's Eastern India, i, 311).
12. For the sake of uniformity the word *madad-i-maash* has been used for all grants coming under the purview of the sadarat.
13. Such grantees were called '*lashkar-i-duaiyan*' because their prayer was though as effective as the strength of the army (*Tuzuk-i-Jahangiri*), Cf. a modern scholar terms these grantees as parasites of the Mughal empire.
14. *Muntakhab-ul-Lubab*, of Khafi Khan, ii, 558-9; *Faramin-i-Salatin*, Bashiruddin Ahmad, Documents Nos. 101, 109, 111.
15. *Mirat-i-Ahmadi*, Ali Muhammad Khan, i, 261.
16. *Dastur-ul-amal-i-Bekas*, Jawahar Mal Bekas, ff. 38-9. *Mirat-i-Ahmadi*, i, 261.
17. *Central Structure of the Mughal Empire*, London, 1936, p. 257. Cf. Under Akbar the *sadr* of Jaunpur was appointed on the basis of his learning and attainments in the field of theology, Badauni, (tr. Lowe), ii, 284; *Maasir-ul-Umara*, Shah Nawaz Khan, i, 471-5. The *sadr's fatwa* against Akbar in 1580 received support from a section of religious class but it certainly offended the emperor.

18. *Ain-i-Akbari* (Ain 19), *op.cit.*, p.278.
19. *Ibid.*
20. Imperial *sadr* Rizvi Khan Bukhari was the sone of imperial *sadr* Sayyid, Jalal. The first *sadr* belonged to the family of teh sayyids, second to the ulama and the third to that of the theologians. The idea of racial superiority and social position was always present in the religious consciousness of Muslims, right from the beginning Islam.
21. *Maasir-i-Alamgiri*, p. 518.
22. *Ibid.* p. 191; *Maasir-ul-Umara*, iii, 32-3.
23. Under Shahjahan imperial *sadr* Musavi Khan with a rank of 400/750 was removed from office in 16 RY/1643 on a report that he had not carried out the order for assignment of land in a proper way. The *sadr* was also charged with having shown favours to the undeserving people without reference to the emperor. (*Badshahnama*, Lahori, ii, 316; *maasir-ul-Uamra*, ii, 327).
24. *Maasir-ul-Umara*, ii, 456-7.
25. *Maasir-i-Alamgiri*, p. 207; *Maasir-ul-Umara*, iii, 120-3.
26. Allahabad Document Nos. 154, 157, 168. c.f. We find Babur's *sadr* designated as dstur Ziauddin Khwafi on a *suyurghal* grant given to a *qazi* (IESHR, iv (1967), "Aspects of Agrarian Relations"... p. 220. Also see seal of Akbar's *sadr* which reads as al-Husaini Sadr-i-Jahan *kamtar in bandeh* in a *farman* of 1003/1596 (*Contributions on Akbar and Parsees*, ed, B.P. Ambasthiya, 1976, p. 96).
27. *Mughal Farmans*, Vol. I, (ed.), K.P. Srivastava, Doc. XXXVIII.



28. *Siyaq Nama* of Munshi Nand Ram, p. 86.
29. Allahabad Documents 165 AB, 166A; *Mughal Archives* ed, Z. Shakeb, *farman* Nos. 6-8 and *nishan* no.3873.
30. *Selected documents of Aurangzeb's reign*, ed, Yusuf Husain (Hyderabad), AR 4995 dt. 16 Ramzan 6 RY/1072, pp. 42-3, AR 1 Rajab 1072/1662, pp. 30-1; *Selected documents of Shahjahan's reign*, No. 86 dt. 12 Zilhijja 1063/1653, pp. 183-4.
31. *Maasir-ul-Umara*, ii, 456-7; K.K. Datta, *Some Mughal Farmans, Sanads, Parwanas (1578-1802)*, Parwana dt. 6 shawwal 24 RY of Shahjahan, p. 113, 136; Allahabad Document No. 159.
32. *Maasir-ul-Umara*, ii, 456-6.
33. *Alamgirnama*, p. 594.
34. Allahabad Documents (Transcript AMU, Aligarh) No. 158, of year 1650 A.D. & 159 of year 1653 A.D.
35. *Maasir-ul-Umara*, iii 518-9; *Mirat-ul-Alam*, Bakhtawar Khan, ed, Sajida S. Alvi (Lahore, 1979), f. 456a.
36. *Maasir-ul-Umara*, iii, 89-92; Qazi Aslam was Jahagir's first teacher, *Ain-i-Akbari* (Blochmann). i, 610.
37. *Maasir-ul-Umara*, iii, 518-9, 120-3.
38. *Ibid.* pp. 120-3.
39. *Ibid.* The *sadr* seal appears on a number of documents viz. Farman dt. 25 Jamadi-us-Sani 8 RY/1665 (K.K. Datta, *op. cit.*, p. 5); also Parwana of 5 RY/1662, Basta 98 (K.K. Datta, *op. cit.*, p. 129). Also see *Maasir-i-Alamgiri*, p. 71.
40. *Maasir-ul-Umara*, iii, 120-3.

41. *Ibid*, *Maasir-i-Alamgiri*, p. 207.
42. *Massir-i-Alamgiri*, p. 207; *Maasir-ul-Umara*, iii, 120-3.
43. *Ahkam-i-Alamgiri*, ed, Sarkar as *Anecdotes of Aurangzeb*, pp. 80-1; Satish Chandra, *Parties and Politics at the Mughal Court*, p. 281.
44. *Faramin-i-Salatin*, Doc. 45.
45. *Maasir-ul-Umara*, iii, 449.
46. *Ibid*, ii, 307-9.
47. *Ibid*.
48. *Ibid*.
49. *Ibid*.; *Mirat-i-Ahmadi*, i, 252.
50. *Maasir-ul-Umara*, ii, 307-9.
51. *Ibid*.
52. K.K. Datta, *op. cit.*, Farman dt. a Rabi-ul-Awal 1080/1669. p. 2; Farman dt. 3 Shaban 19 RY/1675, p.5.
53. K.P. Srivastava, *op. cit.*, Doc. XXXVIII dt. 1077/1666.
54. *Ibid.*, Doc. XXXIX dt. 1087/1676.
55. *Ibid.*, Doc. XL dt. 1088/1677.
56. *Maasir-i-Alamgiri*, p. 219.
57. *Maasir-ul-Umara*, iii, 32-3.
58. *Ibid.*, *Maasir-i-Alamgiri*, p. 191.
59. *Ibid*.

60. *Proceeding of IHRC* (1961), pt II (see M. Abdullah Chaghtai "Grant of Land for Shaikh Jan Muhammad", pp. 139-42).
61. *Ibid.*
62. K.P. Srivastava, *op. cit.*, Doc. XLIII.
63. K.P. Srivastava, *op. cit.*, Basta No. 884, *parwana* dt. 11.2.1685.
64. *Maasir-ul-Umara*, iii, 32-3.
65. There is a gap of nine years. In the absence of any definite evidence we are not in a position to state the incumbents who held the post of *sadr*. However, in all probabilities the office continued as there is no contrary evidence to this effect and there was no interruption in the institution of the *madad-i-maash*.
66. *Maasir-i-Alamgiri*, p. 259
67. *Ibid.*, p. 392.
68. *Mirat-i-Ahmadi*, i, 310.
69. *Maasir-i-Alamgiri*, pp. 396-7. cf. Before *sadr's* appointment Aurangzeb had decided to appoint Shaikh-ul-Islam as *sadr-us-sudur* but the proposal did not materialise due to sudden death of Shaikh-ul-Islam who was on his way to Aurangzeb's headquarters in Deccan (*Ibid.*, pp. 393-4).
70. *Ibid.*, pp. 453-4. Cf. Khafi Khan's reference to another noble Chin Qulich Khan Bahadur in the Decan wars (pp. 536-8).
71. *Ibid.*, p. 506.
72. *Ibid.*, p. 518; *Maasir-ul-Umara*, i, 346-50.
73. *Maasir-i-Alamgiri*, p. 402.

74. Cf. Aurangzeb's wazirs were mostly shias of Persian origin viz. Wazir Muazzam Khan, Fazil Khan, Jafar Khan and Asad Khan. In spite of Aurangzeb having been glorified as *rifizi kush* (slayer of shiaism), shiaism was widely prevalent due to Iranian influence within the Mughal apparatus.
75. Once Sadr M. Amin Khan petitioned to Aurangzeb for offer of *bakshiship* to one of the nobles on the ground that he was a sunni, the emperor rejected the petition with the remarks : "For you is your religion, for me is mine" (Sarkar, *Anecdotes*, No. 39).
76. cf. Shahjahan started the practice of bringing pirs within the farmework of the sadarat when he appointed Sayyid Jalal, a pir and direct descendent of the Bukhari sayyids, as *sadr-us-sudr* in 1642 with a rank of 4000/700, finally promoted to 6000/200 (Badshahnama, Lahori, ii, 316, 753-54). Thus sufis could also become a part of official ulama class.
77. *Maasir-ul-Umara*, ii, 456-7.
78. Athar Ali, *Nobility under Aurangzeb*, p. 146.
79. *Maasir-i-Alamgiri*, p. 85.
80. *Ibid.*, p. 471.
81. *Muntakhab-ul-Lubab*, ii, 321.
82. According to Khafi Khan the fort, after conquest, was renamed Rahman Bakhsh Pura and the foundations of a mosque were laid in it (*Muntakhab-ul-Lubab*, ii, p. 538).
83. *Nuskha-i-dilkusha*, Bhim Sen, f. 150a.
84. *Ibid.*, f. 155a.
85. *Maasir-ul-Umara*, iii, 120-3.

86. *Maasir-i-Alamgiri*, p. 225.
87. *Maasir-ul-Umara*, i, 346-50.
88. *Ibid.*, iii, 120-3.
89. *Ibid.*, iii, 307.29.
90. Allahabad Doc. 157, 158, 160; Mughals & Jogs of Jakhbar (ed.) Goswami and Grewal, Doc. VII.
91. *Maasir-i-Alamgiri*, p. 223; *Kalimat-i-Taiyibat*, Inalyatullah Kashmiri, f. 10 b.
92. The word appears in some documents relating to slightly later period.
93. *Faramin-i-Salatin*, Doc. 20, 31, 172.
94. For a detailed discussion on the noble section of the Muslim society (*ashraf*) see *Ain-i-Akbari*, i, 390 *Maasir-i-Alamgiri*, pp. 366, 528; *Ahkam-i-Alamgiri*, ed., Sarkar, p. 79; Manucci, *Storia do Mogor* tr. W. Irwine, ii, 426-7.
95. *Ain-i-Akbari*, Blochmann, i, 278.
96. Various documents of *madad-i-maash*. The grantees were usually called by the Mughal emperor as *lashkar-i-duaiyan*.
97. Allahabad Doc. No. 9, 55, 165, 172, 174, 178; *Selected Documents of Shahjahan's Reign*, No. 81 dt. 1060/1650, pp. 177-8; *Siyaq Nama*, pp. 82-3; cf. Mulla Iwaz Wajih kept receiving *madad-i-maash* throughout his life, although he served as an imperial *muhtasib* for four years only.
98. *Muntakhab-ul-Lubab*, ii, 212-6, 255; *Mirat-i-Ahmadi*, i, 268-72.
99. See chapters on *qazis*.

100. Such a view has been expressed by some modern scholars viz. Ibn Hasan, *op. cit.*, p. 258; S.R. Sharma, *Mughal Government and Administration* (1951 edn.), p. 50.
101. The last regulations of Jahangir's Twelve Regulations confirmed all the appointments made and grants given during the period of Akbar or earlier, *Tuzuk-i-Jahangiri*, ed., H. Beveridge (tr. Rogers), p. 10.
102. Allahabad Documents Nos. 165, 169, 174, 176, 178.
103. *Ain-i-Akbari*, Blochmann, i, 278-85.
104. *Alamgirnama*, p. 1102.
105. Allahabad Doc. 220, 226.
106. *Farhang-i-Kardani*, f. 39 a.
107. *Nigarnama-i-Munshi*, p. 91.
108. *Ibid*, *Faramin-i-Salatin*, Documents Nos. 101, 109, 111.
109. The *zimn* gave a brief resume of land with demarkation, etc. prepared from the register (*siyaha*) kept in *sadr's* office. The *zimn* repeated the contents and orders of the main text. Definite *chakbandi* was done by the local officers of the *diwani* department on the information given in the *zimn*.
110. Allahabad Documents 220, 226.
111. The documents read as *shar-i-dastkhat-i-sadr panah o ki parwana ba navisand* or *shar-i-sadr harch hukm* or *harch muqarrar savad*.
112. *Nigarnama-i-Munshi*, p. 91.

113. Various *madad-i-maash* documents-opening and concluding lines; *Proceedings of Indian History Congress* (1961), pp. 150-1.
114. *Muntakhab-ul-Lubab*, ii, 558; *Dastur-ul-amal-i-Aurangzeb*, f. 38a quoted in *Reign of Muhammad Shah*, Z. Malik (1977), p. 303.
115. Allahabad Doc. Nos. 165, 168, 174, 176, 178.
116. *Muntakhab-ul-Lubab*, ii, 441-9.
117. *Futuh-at-i-Alamgiri*, f. 70b, 71a, 71b.
118. *Muntakhab-ul-Lubab*, ii, 558.
119. *Ibid.*
120. *Ahkam-i-Alamgir*, ed, Sarkar, pp. 92-3.
121. *Mntakhab-ul-Lubab*, ii, 564-5.
122. *Ain-i-Akbari*, Blochmann, i, 278.
123. Allahabad documents Nos. 2, 165, 168, 174, 176, 178. Also *Ain-i-Akbari*, *op. cit.*, p. 278.
124. *Faramin-i-Salatin*, Documents Nos. 6, 45, 54, 59; *Nigarnama-i-Munshi*, ff. 177a-b 118; *Mirat-i-Ahmadi*, i, 319; Allahabad Doc. 2 (1043/1634) 3, 4, 6 (1062/1652), 166 (40 RY/1695), 168 (11 RY 1079/1668), 169A, 170 to 172, Bilgram Doc. 23 (1032/1623).
125. *Dastur-ul-amal-i-Alamgiri*, f. 34a. The practice was known as *tashihanama*. Cf. the office of the provincial *diwan* also kept a record of charitable grants, *wazifa* and *inams* (B.M.Ms. Add 6588, ff. 72b-73b as quoted by P. Saran, *Provincial Government of Mughals*, Allahabad 1941), p. 192.

126. *Faramin-i-Salatin*, Doc. No. 59.
127. *JRAS* (Bombay), 1903, Doc. No. 4.
128. Like all *mahzars* it was a public recognition of possession of the grant by the person concerned. Allahabad Doc. 357; Bilgram Doc. 7, 17; *JRAS* (Bombay) Doc. 4. For the purpose of ascertaining the extent of the old possession of the *madad-i-maash* grant the details were recorded in the *mahzar*. The local officials were also consulted (*Ibid.*, Allahabad Doc. 48, 357).
129. On which fixed land revenue was assessed. See Bilgram Doc. No. 23, *Faramin-i-salatin* Doc. 45 of 1069/1659. Allahabad Doc. 169-A, 170-172.
130. K.K. Datta, *op. cit.*, Basta 627 of Muzaffarpur Collectorate, p. 104; *Selected Doc. of Aurangzeb's Reign* AR 4945 of 26 RY 1072/1663, pp 42-3.
131. *Selected Documents, of Aurangzeb's Reign*, AR 4995 of 16 Ramzan 6 RY 1072/14.4 1663, pp. 42-3.
132. K.K. Datta, *op. cit.*, Basta No. 699 of Muzaffarpur Colelctorate, p. 527.
133. *Ibid.*
134. *Ibid*, Also see *Ibid.*, Basta 674, pp. 110-1.
135. *Mughal Farmans*, ed. K.P. Srivastava, I, Doc. No. XXXVIII.
136. *Ibid.*
137. *Allahabad Doc.* No. 2.
138. *Ibid.*, 3, 4, 6.
139. *Ibid.*, 157 and 166-A of 1668 A.D.



140. *Ibid.*, 166.
141. *Ibid.*, No. 169A, 170-2; Bilgram Collection Doc. No. 23; *Faramin-i-Salatin* Doc. No. 45 of 20 Rajab 1069/1659, p. 113; K.K. Datta, *op. cit.*, seven *parwanas* between 1674 and 1709 preserved in Basta 693, pp. 113-4.
142. *Ain-i-Akbari*, Blochman, i, 271; *Selected Documents of Aurangzeb's Reign* AR 941 of 1071/1661 under the seal of *sadr-us-sudur* Rizvi Khan, pp. 30-2; *Selected Waqai of Deccan* dt. 7 Rajab 1072/1662, p. 49, Doc. 61 dt. 18 Jamadi I 1051/1644, on forgery of *uzuk* seal on a *farman*, *Selected Documents of Shahjahan's Reign*, pp. 130-1.
143. *Selected Documents of Shahjahan's Reign*, No. 78 of 1059/1649 pp. 173-4; No. 81, pp. 177-8; *Edicts from the Mughal Harem* (Tirmizi), Doc. No. XX of 2 Shawwal 15 Julius/21.1.1673, p. 100; K.P. Srivastava, *op. cit.*, Dara Shukoh's *nishan* dt. 1066/1656, of prince Muhd. Azam, dt. 1111/1076.
144. Both land grant and cash stipend were covered under the general term *suyurghal*, *Ain-i-Akbari*, Blochmann, i, 278; *Faramin-i-Salatin* Doc. No. 34 dt. 1054/1644, No. 49 dt. 1074/1663, No. 77 dt. 1102/1691 relating both to land grant and cash allowance as *madad-i-maash*; *JPHS* (October 1957), vol. V, No. 4, Jnan Chandra, "Aurangzeb and Hindu Temples", p. 250, (1958).
145. *Selected Documents Shahjahan's Reign*, No. 86 dt. 1063/1653, pp. 183-4.
146. *Mirat-i-Ahmadi*, i, 303-04.
147. *Selected Documents of Shahjahan's Reign*, No. 59, pp. 128-9 No. 63 of 1054/1644, p. 135.

148. *Mughal Archives*, ed. Z. Shakeb, *nishan* of Aurangzeb dt. 1065/1654, pp. 27-9.
149. *Ibid.*, *Maasir-i-Alamgiri*, p. 229; *Selected Documents of Shahjahan's Reign*, No. 87 dt. 16 Muharram 1064/1653, pp. 184-6, Doc. 89 dt. 29 Safar 1064/1654, pp. 187-9; *Selected Documents of Aurangzeb's Reign*, No. 797 dt. 1095/1684, pp. 153-4, No. 941, pp. 30-2; *Selected Waqai of Deccan (1660-71)*, ed, Yusuf Husain, Aurangabad report dt. 7. Rajab 1072/1662, p. 49.
150. *Muntakhab-ul-Lubab*, ii, 480, 559; *Mirat (Supplement)*, p. 124.
151. *Maasir-i-Alamgiri*, p. 529.
152. *Mirat-i-Ahmadi*, i, 258; *Alamgirnama*, p. 1085.
153. *Mirat-i-Ahmadi*, i, 258.
154. *Faramin-i-Salatin*, Doc. 49 dt. 1074/1664; *Selected Document of Shahjahan's Reign*, Doc. No. 59, 63, dt. 1054/1644 and No. 78 dt. 1059/1649, pp. 173-4; see grants to the *dargahs*.
155. See chapter on local qazis.
156. *Mitat-i-Ahmadi*, i, 344. In addition to this a daily allowance of Rs. 2 was also sanctioned for free food (*langar*). Also *Selected Documents of Shahjahan's Reign*, p. 78. Cf. The families of notable scholars at Sirhind, Sialkot and Lahore were probably in regular receipt of this concession. See, Manucci, ii, 399; Sarkar, *Topography of Mughal Empire*, p. 95.
157. *Muntakhab-ul-Lubab*, ii, 559-61; K.P. Srivastava, *op. cit.*, Doc. XLIV; *Selected Documents of Shahjahan's Reign nishan*

of Aurangzeb dt. 1059/1649, pp. 173-4; *Mughal Archives*, ed, Z. Shakeb, pp. 27-9; Doc. 4. Farsiya, 6, *Sanbhal Documents* (Ms. A.M.U.); cf. for a discussion on the activities of the *madrassa* and *dars-i-nizami* during Aurangzeb's period see *India's Cultural Relations with Central Asia*, Nizami, p. 160; *Proceedings IHRC 1958*, pt. II, pp. 100-4.

158. Bernier, *Travels*, p. 282; Firingi Mahal came into prominence in the 19<sup>th</sup> century when the *ulama* educated in this institution provided leadership to a section of the Muslims for their rights.
159. Bernier, *Travels*, pp. 155-6; also Manucci, ii, 29; cf. Aurangzeb was fond of works and books written by the learned saints and sufis (*Alamgiranama*, p. 1103). According to Bakhtawar Khan Aurangzeb was taught by three able theologians (*Mirat-ul-Alam*, f. 455b).
160. *Mirat-I-Ahmadi*, ii, 327. Case of *qazi* Muhd. Shafi who was appointed *qazi* of *pargana* Mertah in the *faujdari* of Jodhpur by an imperial order.
161. *Raqqat-i-Hasan* (tr. & ed.) *Studies in Mughal Administration* Jadunath Sarkar, p. 225.
162. *Selected Documents of Aurangzeb's Reign*, AR 941 of 1071/1661, pp. 30-2.
163. *Selected Documents of Shahjahan's Reign*, Doc. No. 86, pp. 193-4.
164. K.K. Datta, *op. cit.*, *parwana* dt. 1082/1671, p. 62, Basta 695 of Muzaffarpur Collectorate, p. 16.
165. *Waqiat-i-Ajmer*, i, 30-2, (Transcript A.M.U.)

166. *Selected Waqai of Deccan* (1660-71), dt. 7 Rajab 1072/16.2.1662, p. 49.
167. *Selected Documents of Aurangzeb's Reign*, AR 129, pp. 120-1.
168. *Ibid.*, AR 938, dt. 3 Zilqada 22 RY/7.12.1678. There are a few references to families of Persian poets and doctors having migrated to India. According to Lahori a runaway physician of the Shah of Persia was sure of a cordial welcome at the court of Delhi during Shahjahan's period (*Badshahnama*, ii, 367-8); also *Alamgirnama* p. 45.
169. *Ain-i-Akbari*, (Ain 19), blochmann, i, 279.
170. *Mirat-i-Ahmadi*, i, 319.
171. Under Akbar the practice was to measure the land by *ilahi gaz* and demarcate it before it was handed over to the grantee, *Ain-i-Akbari* Jarrett and Sarkar, ii, 66; Akbari farman of 21 Din-i-Ilahi 37 RY/2 Shawwal 1000 A.H./12.7.1592 regarding reinstatement of Qazi Kamal of *pargana* Bilgram.
172. Allahabad Doc. 168 of 1079/1668, Bilgram Doc. 22; "A Sanad of 16 Zilqada 43 RY/1111 (1700)" as quoted by Sushil Chandra De in *Proceedings IHRC*, 1955 (ii), xxxi, 81-5.
173. Allahabad Doc. 14 of 47 RY/1704; 314 of 1065/1654; *Faramin-i-Salatin*, Doc. 45, 69.
174. *Faramin-i-Salatin*, Doc. 62.
175. K.K. Datta, *op. cit.*, pp. 32-4, 56, 58, 62. A *nishan* of Dara Shukoh issued in 30 RY of Shahjahan for 30 bighas of *madad-i-maash* stated that the land was to be released after measurement and demarcation (Doc. XXXIV, *Mughal Farmans*, ed, K.P. Srivastava, Vol. I); *Nigarnama-i-Munshi*, p. 91.

176. Jais Collection (AMU), No. 1, Bilgram Doc. No. 7, 17;  
*Faramain-i-Salatin*, Doc. 59 dt. 14 Ramzan 24 RY/1680.
177. *Farhand-i-Kardani*, f. 39b; *Muntakhab-ul-Lubab*, ii, 550.
178. Akbar's *farman* dt. 986/1578 at AMU; Some of these cesses are also mentioned in *The Mughal and Jogis of Jakhbar*, Doc.IV, pp. 98-9; K.K. Datta, *op. cit.*, *farman* dt. 5 Ramzan 43 RY/1699, p. 11, also p. 17; *Faramin-i-Salatin*, Doc. 45, 48, 56 (all relating to Aurangzeb's period); Allahabad Doc. 60, 315; *Selected Documents of Shahjahan's Reign*, No. 90, p. 190.
179. K.K. Dattta, *op. cit.*, Basta, 242, *Farman* 43 RY/1699, p. 11, Basta 79 of Shahabad Collectorate, Basta 77 dt. 17 Zilqada 35 RY/1691, p 57; Basta 242 of Muzaffarpur Colelctorate, p. 11.
180. *Mirat-i-Ahmadi*, i, 259-65.
181. Allahabad Doc. 1 dt. 1063/1653-54
182. *JPHS (1958)*, Jnan Chandra, "*Alamgir's Patronage of Hindu Temples*", Vol VI, pt. I, pp. 208-13.
183. *Ibid.*
184. *Ibid.*
185. See chapter on Local *Qazi*.
186. *Mirat-i-Ahmadi*, i, 268-72 (clause XV). Also, see Khwaja Yasin's Glossary for endowments created by the state, f. 71a.
187. *Dastur-ul-amal-i-Bekas*, ff. 38-9; *Faramin-i-Salatin*, Doc. 4, 7, 9.
188. Sometimes the *sadr* could appoint a *mutawalli* directly with a suitable *madad-i-maash*.

189. *Jais Colelction* (A.M.U.) No. 1. At a later stage the grant was converted into village grant assigned to the individual *sajjada nashin* (*Ibid.* Nos. 2, 4, 5, 13).
190. *Ibid.*
191. *Muntakhab-ul-Lubab*, ii, 560.
192. *Maasir-i-Alamgiri*, p. 481.
193. *Ibid.*, p. 348.
194. *Memoirs of Gaur and Pandua*, M. Abid Ali Khan, pp. 84-5. The sufi was known for his knowledge of *haqiqat* and *marifat*.
195. *Ibid.*
196. K.K. Datta, *op. cit.*, Basta 627 of Muzaffarpur Collectorate, p. 104.
197. *Ibid.*
198. Six Persian documents at the Gallery of Central Museum, Lahore, referred to in *Proceedings IHRC* (1960), xxxv, M.A. Chaghtai "Imperial Grants of Land concerning the sanctuary of Makhdum Majduddin Haji of Delhi", pp. 59-64.
199. Allahabad Document 197 of 1197 A.H., *Proceedings IHC* (Hyderabad, 1941), B.D. Verma, "A Farman granted to Sayyids of Batwah", pp. 435-6.
200. *Muntakhab-ul-Lubab*, ii, 549.
201. *Jais Collection* (AMU), Nos. 2, 4, 5, 13.
202. *IESHR*, Vol. X, 1973, Richard M. Eaton "The Court and the Dargah in 17<sup>th</sup> Century", pp. 50-63. cf. Considering the tradition among many *pirs* of allofness from the court of any military ruler, the state had confirmed symbolically the

dependence of religious life upon the central government and its courtly orientation.

203. Separate free kitchens were also established at the government expense (*Maasir-i-Alamgiri*, pp. 125, 169; *Muntakhab-ul-Lubab*, ii, 123)
204. *Faramin-i-Salatin*, Doc. 3, 5, 25, 147; K.K. Datta, *op. cit.*, p. 60; *Selected Documents of Aurangzeb's Reign*, pp. 20-1; also *Imperial Mughal Farmans*, Commissariat, vol. II, plate XX about *sajjada nashin* Hazrat Khwaja Buzurgwar.
205. *Waqiat-i-Ajmer*, i, 13. cf. According to Irfan Habib, relations between the two were cordial (p. 310). Some of the grants included a provision as 'descendant to descendent' (Allahabad ?Doc. 9, 55, 165, 168, etc.); cf. Report of the Dargah Khwaja Saheb (Ajmer) Committee of Enquiry, New Delhi, 1949, cites, a *farman* dt. 6.1.1575 issued by Akbar assigning huge sums of money and few villages in favour of the *dargah* (p. 20). The report also mentions removal of a *sajjada nashin* by the emperor (p. 28).
206. *Waqiat-i-Ajmer*, i, 30-2.
207. *Maasir-i-Alamgiri*, p. 529; *Mirat-i-Ahmadi*, i, 330. cf. In most of these cases *qazis* sent the reports.
208. *Mirat-i-Ahmadi*, i, 330.
209. *Faramin-i-Salatin*, Doc. No. 95.
210. *JPHS* (April 1961), vol. IX, Shaikh Abdul Rashid, "*Madad-i-maash* grants under the Mughals", pp. 103-06.
211. The location of the *math* usually coincided with trade routes.
212. *Imperial Farmans granted to Tikayatji Maharaj*, ed, K.M. Jhaveri, *Farman* No. 7 dt. 1043/1633.

213. *Ibid.*, *Farman* No. 16.
214. *The Mughals and the Jogis of Jakhbar*, ed., Goswami and Grewal, Doc. IV, VII, XI, XV-A.
215. *Ibid.*, p. 33.
216. See chapter on *madad-i-maash*.
217. *The Mughals and the Jogis of Jakhbar*, p. 33, Doc. XII states that *madad-i-maash* remained in possession of the *jogis* till the end of 15 RY. This document is incomplete. cf. The grantee Anand Nath died at about this time (*Ibid.*, p. 34). The possibility that the grant was resumed in its natural course irrespective of the imperial *farman* of 1672-73 appears to be very much there.
218. *Ibid.*, Doc. IX dt. 1093/1682; p. 127-34.
219. *Ibid.*, Doc. No. XI dt. 1122/1710, pp. 147-8.
220. *Proceedings, IHC* (Jabalpur, 1970), Basta 2/76 of Jodhpur Records, cited by Satish Chandra, "Some religious grants of Aurangzeb to the *Maths* in Marwar", pp. 405-7.
221. *Ibid.*
222. *Ibid.*
223. The *jangams* were granted *madad-i-maash* of 178 bighas of cultivable land in *pargana* Haveli (Benaras) by Akbar in 971 A.H. for their *math* situated in the midst of Benaras town.
224. "A note on Six jangambari documents of Benaras", M.A. Ansari, *IHRC* (Bikaner, 1976), Vol. SLIV, pp. 205-18.
225. *Ibid.*, cf. Jnan Chandra, "Alamgir's Patronage of Hindu Temples", *JPHS* (1958), Vol. VI, pp. 208-13. The document which bears the date 1085 A.H. refers to the *parwana* issued



by imperial *qazi* Abdul Wahhab. There seems to be some discrepancy because Abdul Wahhab had died by that time. In Allahabad Doc. 20 we find the *jangams* holding 2 gardens and some buildings at the back of Ram Sagar Tank in *pargana* Gaya by 30 RY of Muhd. Shah.

226. *Ibid.*

227. K.K. Datta, various Basta of the years 167, 1673, 1676 and 1685, pp. 69, 76.

228. *Ibid.*

229. K.K. Datta, Basta 299 dt. 7 Zilqad 25 RY/1682, p. 30, Basta 344 of 1081/1670, p. 68. cf. Parsee Mehr Tabib was given 4 auls of land of which one cultivated and 3 cultivable within the environs of the town of Navasari (vide *Farman* of 21<sup>st</sup> Muharram 989) for free distribution of medicine to the people (Hodivala, *Studies in Parsee History*, pp.172-3, 186-7).

230. *JPHS* (1959), Jnan chandra "Alamgir's Grant to a Brahmin", pp. 99-100.

231. K.K. Datta, *op. cit.*, No. 36 of 11 Ziqaad 46 RY/1702, p. 26; No. 374 of 11 Shaban 3 RY/1660, p. 85; No. 341 of 1102/1690, p. 79; No. 325 (326) of 1074/1663, p. 76; No. 262 of 1 Muharram 1079/1668, p. 66.

232. *Ibid.* The practice continued under later Mughals also.

233. An imperial *farman* grants concessions of Shanti Das Jauhari, Nagarseth of Ahmedabad (*JPHS*, October 1957), Vol. V, No. 4, cf. Jahangir was favorable inclined to Jaina community and gave liberal grants for erection of Jain temples at Agra Lucknow, Gujarat and other places. The misunderstanding developed for a short while was soon resolved. The Jains were in receipt of charitable grants from the Mughal rulers.

234. *Ibid.*
235. *Ahkam-i-Alamgiri*, ed, Sarkar, *Anecdotes*, No. 18. cf. Sadr Makhdum-ul-Mulk asked for trial of Shaikh Alai during Akbar's period.
236. *Mirat-i-Ahmadi*, i, 323-4. This happened in 1101/1689-90.
237. See chapter on *qazis*.
238. *Waqiat-i-Ajmer*, i, 53; also *Muntakhab-ul-Lubab*, ii, 760.
239. *Maasir-i-Alamgiri*, pp. 47, 529.
240. *Badshahnama*, ii, 289, 632; also *Aina-i-Gujarat*, p. 186 quoted in *Proceedings IHC* (950), p. 230.
241. *Maasir-i-Alamgiri*, p. 169.
242. *Ibid.*, pp. 125, 169.
243. *Mirat-i-Ahmadi*, i, 265.
244. Allahabad Doc. 165, 168, 174, 176, 178.
245. *Mirat-i-Ahmadi*, i, 303-04; K.K. Datta, *op. cit.*, p. 107.
246. *JRAS* (Bombay, 1903), Doc. 4.
247. The *tashihnama* was originally drawn up by the *sadr-us-sudur* on the authority of the pervious *sanads*.
248. Allahabad Doc. 9, 154 of 1049 A.H., 165, 168 of 1079 A.H., 170 of 1073 A.H., 176, 178; *Proceedings IHC* (Delhi, 1961), B.R. Grover, "Position of Desai in the Pargana Administration of Suba Gujarat under the Mughals", pp. 150-5; *Selected Documents of Shahjahan's Reign*, Doc. 81 dt. 6 Zilqada 1060/21.10.1650, pp. 177-8; *Faramin-i-Salatin* Doc. 45 dt. 20 Rajab 1068; also *Imperial Farmans to Tikyati Maharaj*

farman dt. 7 RY of Shahjahan which states the words *naslan bad nasl*.

249. Allahabad Doc. 55 of 1106 a.H.; *Siyaq Nama*, pp. 82-3; Bilgram Collection, Doc. 39 of 1095 A.H.; *Faramin-i-Salatin*, Doc. 55, 63; Sambhal Doc. *Farsia* 6/52 dt. 1071 A.H.; K.K. Datta, *op. cit.*, p. 41.
250. *Faramin-i-Salatin* Doc. 63 dt. 20 Rajab 1068, Doc. 55, *parwana* 34 RY/1690 of 1087 A.H. Even a small grant of 40 bighas in village Chak Moharrar, *pargana* and *sarkar* Hajipur given in 13 RY/1670 in favour of Shaikh Habib was renewed and confirmed three times between 40 RY/1703 and 51 RV/1707 in the names of the heirs of the grantee.
251. *Mirat-i-Ahmadi*, i, 335.
252. *Badshahnama*, ii, 365; *Maasir-ul-Umara*, iii, 449.
253. *Studies in Aurangzeb's Reign*, Sarkar, pp. 166-8.
254. *Ibid.*
255. *Badshahnama*, ii, 363, 365-66.
256. *Selected Documents of Shahjahan's Reign*, Doc. 61 dt. 18 Jamadi I 1054/1644, p. 130.
257. K.K. Datta, *op. cit.*, Basta 687, p. 15.
258. *Ibid.*
259. *Ibid.*, Basta 694, p. 16.
260. *Ibid.*
261. Allahabad Doc. 315; also see Bilgram Doc. 7, 17.
262. Allahabad Doc. 204 dt. Muharram 1080/1669.

263. K.K. Datta, *op. cit.*, pp. 66, 76, 85.
264. *Ibid.*, p. 79.
265. *Ibid.*, p. 26.
266. *JPHS*, 1957, Vol. V, Jnan Chandra, "Aurangzeb and Hindu Temples", p. 250.
267. Basta 2/76 Nos. 8-19 and 26-31 of Jodhpur Records, Bikaner as quoted by Satish Chandra, Some Religious Grants of Aurangzeb to Maths in the State of Marwar", *Proceedings IHC* (1970), i, 405-7.
268. *Ibid.*
269. *Ibid.*
270. *Imperial Farmans granted to Tikayatji Maharaj* (ed, K.M. Jhaveri), various Farmans.
271. *Parwana* dt. 8 Jamadi I, 8 RY of Aurangzeb, *JPHS*, vi (1958), Jnan Chandra "Alamgir's Grants to Hindu Pujaris", pp. 55-65.
272. This has led some scholars to think that *madad-i-maash* grantees enjoyed a better social and economic status.
273. Allahabad Document relating to a judicial decision of January 1666 as quoted by Irfan Habib, *op. cit.*, p. 304.
274. *Mughal Farmans*, ed, K.P. Srivastava, Vol. I, Doc. XLIX.
275. *Ibid.*
276. *Ibid.* : *Clause V of Farman* : 'If a man dies leaving his wife, his land shall be left in her possession and she as a life tenant, shall continue to hold the same and after her death, the lands shall be given to the heirs of the aforesaid woman'.

277. *Clauses 2, 3, 4 of the Farman*, Also see *Faramin-i-Salatin*, Doc. 77 which relates to a *madad-i-maash* of 1 rupee as daily allowance from treasury of Panipat and 100 bighas of land from *paragana* Panipat *suba* Shahjahanabad, in favour of Sayyid Jamal and his descendants. The copy of the Ifarman which was received in the office of the *sadr* on 11 Ramzan 35 RY/1691 contains as provision of shares of *madad-i-maash* in favour of daughters viz. Sahib Daulat, Noor Bibi, etc. On the *pusht* of the document the daily allowance was increased to Rs. 5. Cf. daughters probably never claimed any share in *zamindari* rights during this period.
278. This is clear from various clauses of the *farman* : Married daughters who received land from their husbands were to forego their shares in favour of their brothers. Strangely, of the *farman* appears to be in contravention of the *shari'at* principles. Yet the words "in accordance with Muhammadan code of law (*mutabiq-i-shar-i-sharif* )" appear frequently in clause VI and so on.
279. "Even if all the heirs to a grant possessed land at some other place, the share in *madad-i-maash* shall be treated as additional means of income and shall not be interfered with."
280. *Fathiyya-i-ibrjyya* quoted in *History of Bengal*, Sarkar, pp. 372-3.
281. Local feuds or dispute among the grantees gave an opportunity for exploitation by a powerful *zamindar*.
282. The *aimadars* of amethi had to pay the customary land revenue amounting to Rs. 10,015. The *Iaimadars* of Haidargah, Satrakh, Ibrahimpur and Anbola *paraganas* had also to pay a fixed revenue, Allahabad Doc. 218 of 1179/1764. Thus certain types of *madad-i-maash* land acquired more or less the same character as *zamindari* lands.

cf. A document in Bilgram collection makes a reference to a *madad-i-maash* mortgaged in 1136/1724 (Bilgram Document 67).

283. Allahabad Documents 1285, 1312.

284. *Ibid.*, 992.

## Chapter - 3

### Imperial Qazis

The Mughal judiciary was organised within the framework of *sadarat*. A close bond existed between the *sadr* and the *qazi* as the latter received subsistence grant through the office of the *sadr* which made him virtually dependent on the Mughal government. The Mughal rulers believed in the supremacy of state organisation based on the acceptance of a common rule, irrespective of religious or ethnic heterogeneity of the subject people. In the capacity of a supreme judge of the empire, the emperor showed utmost desire for absolute justice to all. This was fully strengthened by the Quranic injunctions and numerous Islamic traditions which exhorted the search for good and punishment for bad through the *shariat*. The monopoly of interpreting religious law of Islam i.e., the Quran and the Sunna had long been delegated to the *qazi*.

Thus *qazi* was basically a religious judge attending to disputes referred to him. He was present to do justice in person at all levels : in the imperial court, provincial capitals, *sarkar* headquarters and almost in every *pargana* having considerable Muslim population. The *qazi* attached to the imperial court or royal camp was usually styled as *qazi-i-lashkar*<sup>1</sup> or *qazi-i-qurdu*.<sup>2</sup> On account of his association with the royal court *qazi-i-lashkar* was assigned a place of eminence. Khafi Khan states that under Shahjahan and Aurangzeb the status of *qazi-i-lashkar* was upgraded and he was popularly designated as *qazi-ul-quzzat*.<sup>3</sup> The new position

enhanced the dignity of his office and differentiated him from other *qazis*. The distinct existence of *qazi-ul-quzzat* as separate from *sadr-i-kul* or *sadr-us-sudur* is visible throughout the period of Aurangzeb<sup>4</sup> except for a brief period in 1698 A.D. when *qazi-ul-quzzat* Qazi Abdullah officiated as *sadr-us-sudr* in the absence of a regular imperial *sadr*.

The *qazi-ul-quzzat* was appointed directly by the emperor through a *farman* primarily on the recommendation of the *sadr-i-kul*.<sup>5</sup> In accordance with the imperial *farman* the *sadr-i-kul* or *sadr-us-sudr* issued the *sanad*. This procedure is corroborated by our sources in the appointment of Shaikh-ul-Islam. At the death of imperial Qazi Abdul Wahhab in Shahjahanabad, the *sadr-us-sudur* Rizvi Khan Hadi, in accordance with the imperial *farman*, directed that Shaikh-ul-Islam should be asked to come to the imperial camp (*urdu-i-mualla*) with all imperial honours to be appointed as the imperial *qazi*.<sup>6</sup> Often *suba qazis* were also considered for appointment as imperial *qazis*. Since the post demanded reputation of scholarship and sanctity of character, the public opinion was that the post should be offered by the emperor and not asked for.<sup>7</sup> This was in consonance with the practice prevailing in early days of Islam when *qazi's* post was accepted with fear and reluctance.<sup>8</sup> Aurangzeb appears to have taken a keen interest in the appointment of *qazis* at all levels. The author of *Waqiat-i-Alamgiri* states that Aurangzeb used to spend more time in selection of the *qazis* than in making appointment to any other post in the empire.<sup>9</sup> He used to make enquiries through the *sadr* about their qualification and character. Exceptionally a *qazi* having the confidence of the emperor could recommend the appointment of his successor also. This happened with Qazi Shaikh-ul-Islam who advised Aurangzeb to confer the office on Sayed Ali Said, the son-in-law of late *qazi-ul-quzzat* Abdul Wahhab,<sup>10</sup> although



the subject-matter pertained to *sadr-us-sudur's* jurisdiction. Many faults of imperial *qazi* Abdul Wahhab were deliberately ignored by the emperor probably because the former was considered an expert on the *hadis* and was in the confidence of the ruler.

As a rule no definite *mansab* seems to have been fixed for the imperial *qazis*. Normally they were given revenue-free assignments in land and sometimes cash stipend also as *madad-i-maash* through the Sadr's office. However, a few *qazis* received *mansabs* also.<sup>11</sup> Under Aurangzeb two imperial *qazis* were *mansabdars* at one time or the other viz. Qazi Akram who held a rank of 100 *zat* and Mulla Haidar popularly known as Qazi Khan who held a rank of 2000 *zat*. The *mansabs* were in addition to the annual *wazifa* enjoyed by these *qazis*.<sup>12</sup> It has been suggested by some scholars that the *madad-i-maash* to the *qazi* was usually conditional upon service.<sup>13</sup> It appears that there was no hard and fast rule in this regard. We find many officers who continued receiving *madad-i-maash* even though they were no longer in active service. However, some of the imperial *qazis* were wealthy and influential and could comfortably vie with other section of nobility. Qazi Abdul Wahhab is said to have amassed so much enormous wealth by misusing his position that even a Mughal noble Mohabat Khan had become jealous of him.<sup>14</sup>

The *qazi* at all levels held office during emperor's pleasure. He could be removed any time by the emperor directly or on a report from the *sadr-i-kul*. We have several cases on record when Aurangzeb had to order their removal on account of misconduct or when they refused to fall in line with emperor's wishes. The classical example is of the imperial *qazi* who refused to permit the *khutba* to be read in Aurangzeb's name in the lifetime of Shahjahan, even though

the former had succeeded in wresting the Mughal throne. Such an attitude by a religious-cum-judicial functionary placed Aurangzeb in an embarrassing situation. Abdul Wahhab, qazi of Patan, came to his rescue. However, arguments advanced by Abdul Wahhab that Shahjahan had become insane and, therefore, unfit to rule and that Aurangzeb by virtue of his military leadership and religious temperament had already built up his position to rule the empire could not convince the *qazi-ul-quzzat*. In anger Aurangzeb dismissed the uncompromising *qazi* and appointed Abdul Wahhab as the *qazi-in-quzzat* in his place.<sup>15</sup> On a report from Amanullah, the chief architect (*mir imarat*) that the *qazi* of Delhi had amassed wealth in addition to big property consisting of buildings and groves, in illegal manner, Aurangzeb passed orders for qazi's dismissal and appointment of Qazi Haidar in his vacancy.<sup>16</sup> Qazi Rahmatullah of Cuttack was dismissed for misconduct and violation of *shariat*.<sup>17</sup>

Sometimes provincial or local *qazis* were suspended by the governor and a report about this was sent to the royal court. Suspecting Mulla Mustafa the *qazi* of Decca to be a bribetaker, Mir Jumla, governor of Bengal (1660-63) expelled him from the town and administered justice personally both in religious and secular affairs.<sup>18</sup> However, a dismissed *qazi* could be reinstated on a petition from the eminent persons of the area. The reinstatement of the *qazi* was, however, stopped by an imperial order issued in 1093/1682-83 which stated in clear terms that no dismissed *qazi* was to be reappointed under any circumstances.<sup>19</sup> From the nature of practical functioning<sup>20</sup> one may safely deduce that the imperial *qazi* could not be assumed as chief justice of the empire because of three reasons :

- (a) He was not the appointing or removing authority of *qazis* at provincial or local level.<sup>21</sup>
- (b) He had, perhaps, no jurisdiction to give directions to the lower *qazis* and their courts and
- (c) All courts were original courts and possessed the original power of trying the disputes afresh. There was no definite hierarchy of appellate courts and as such the imperial *qazi* was basically a *qazi* who stood on slightly higher footing than the other *qazis* because of his presence and association with the imperial court.

### **Qualifications<sup>22</sup> for Appointment**

The early jurists have discussed at length eligibility or qualities of a *qazi*. According to Hidayatullah Bihari a *qazi* was expected to be conversant with law and theology and was required to be firm and orthodox in religious belief.<sup>23</sup> Normally, learning and proficiency to the satisfaction of the *sadr* formed the essential qualification for recommendation and subsequent appointment to the post of a *qazi*.<sup>24</sup> The *Hidaya* states that the primary and indispensable qualifications of a *qazi* were honesty, impartiality, virtuousness and detachment from the society of the place.<sup>25</sup> A *qazi* must possess the qualification of a Muslim witness i.e. he should be free, sane, adult, a Musalman and unconvicted of slander.<sup>26</sup>

The *qazi* was expected to be honest, impartial and was forbidden from accepting presents from the people he served. He was exhorted to believe in simple living.<sup>27</sup> The *qazi* should be able to write decrees, sale deeds, mortgage bonds and other legal documents carefully so as to avoid embarrassment.<sup>28</sup> In Aurangzeb's view as expressed through

his letter, no work was more important than the office of the *qazi* because people of God were imprisoned or sentenced to death by the decision of a *qazi*.<sup>29</sup> While appointing Shaikh-ul-Islam for the post of imperial *qazi* Aurangzeb remarked : "To be fit for the work of justice (*qaza*) and to work for it is actually a greater form of worship."<sup>30</sup> According to contemporary chroniclers, Qazi Shaikh-ul-Islam who was noted for his piety and integrity was perhaps a rare example of being a true *qazi*.<sup>31</sup> He voluntarily resigned when his views did not coincide with the emperor's on the question of Deccan invasion.<sup>32</sup>

Some of the *qazis* during this period were famous for their learning and jurisprudence. *Qazi-ul-quzzat* Abdul Wahhab was reported to have attained mastery over Islamic traditions (*hadis*).<sup>33</sup> Qazi Hussain Jaunpuri was appointed one of the compilers of *Fatawa-i-Alamgiri*.<sup>34</sup> Qazi Abdul Fath, *qazi* of Dhar, was considered an accomplished scholar of Aurangzeb's period.<sup>35</sup> The references to the sanctity and integrity of the *qazi* indicate that he continued to be considered by the people as an embodiment of enforcing *shariat* and thereby preserving the religious ideals. However, this does not mean that all the *qazis* were experts in theology and were therefore solely appointed by virtue of their merit. Their integrity and scholarship were often subordinate to their family background. Qazi Abdul Said who was the son-in-law of Qazi Abdul Wahhab was charged with wrong judgements and misuse of influence.<sup>36</sup> In a rare case one Syed Bahadur who was illiterate was appointed *qazi* of Jodhpur solely because his father was also a *qazi*.<sup>37</sup> Thus even illiteracy was no bar to the appointment of a *qazi* in actual practice. Apart from hereditary claims sometimes corruption in the form of accepting illegal gratification from the involved persons was also rampant among them from top down.<sup>38</sup>

### Religious Titles and Position<sup>39</sup>

In order to conform to the dignified position due to the post, the *qazi* were usually mentioned with reverence. Like other people belonging to superior ethnical denominations such as *sayyids* and *shaikhs*, the *qazis* too were placed a step higher in the medieval society.<sup>40</sup> In contemporary records they were identified with such titles as *shariat maab*, *fazilat iktisab*, *diyanat nisar*, *shariat panah*, *khadim-i-shar*.<sup>41</sup> Because of their knowledge of the *shariat*, many religious titles were reserved for them. In a paragraph congratulating a *qazi* on his appointment, the author of *Nigarnama-i-Munshi* ascribes several titles to the *qazis* of the period.<sup>42</sup> However, *Shariat panah* was a common title used by the *qazi* in his seal. Qazi Shihabuddin Muhammad of Aurangzeb's period was referred to as *shariat panah*, *fazilat dastgah*.<sup>43</sup> Similarly Qazi Muhd. Anwar, son of Abdul Latif, styles himself as *khadm-i-ishar* (the servant of the Holy Law) in his seal dt. 1102 A.H. of 33 RY of Aurangzeb.<sup>44</sup> In a report of 1058/1648 from Deccan a *qazi of pargana* Chandpur had referred to himself as *faqir haqir khadim-i-shar-al-sharif*.<sup>45</sup> *Qazis* of Bilgram *paragana* designated themselves as *khadim-i-shar*, *khadim-i-shar-i-sharif*, *shariat panah*, *ba hazur arbab shariat baldah*, etc.<sup>46</sup> Most of the seals of *qazis* affixed on the original and copies of the chancery documents of the Mughal period inscribe the name of the *qazi* with the words '*khadim shar*'.<sup>47</sup> It appears that some imperial and provincial *qazis* did not write any symbolical title and were simply known by their names. Qazi Abdul Wahhab, Qazi Shaikh-ul-Islam, Qazi Abdul Haq, Qazi Nurul Haq come under this category.

The respect shown by these titles coupled with Aurangzeb's apparent desire to follow legal procedure in every case implied a special position of the *qazis* in matters

of religion and justice.<sup>48</sup> At various places we find the officers being directed to refer the particular case to the *qazi* for decision in accordance with the *shariat*.<sup>49</sup> Aurangzeb appeared to be so much averse to any attempt to place the *qazi* in an inferior position that he once issued an order reprimanding Ibrahim Khan, governor of Bengal, for holding his court sitting on a cot (*charpai*) while asking the *qazi* to sit on the floor.<sup>50</sup> Once the emperor had to pass orders for the arrest of prince Kham Baksh for assaulting a *qazi*.<sup>51</sup> A Governor was dismissed for causing deliberate delay in producing the accused before the *qazi*.<sup>52</sup> It appears that any affront to the *qazi* was considered a serious offence and severe punishment was usually given. Consequently some of the *qazis* had become bold and tried to misuse their position. The *qazis* of Agra was reported to have sentenced a man to death for abusing the *qazi* in his court. The governor, however, refused to confirm the sentence.<sup>53</sup> The Mughal officers felt demoralised at such an attitude of some *qazis* and regarded their interference as an obstacle in the smooth running of administrative work. Khafi Khan attributes Aurangzeb's virtual failure to his reluctance to go beyond Islamic law and frequent insistence of formal trails by *qazis*.<sup>54</sup>

Which such an imperial attitude enhanced *qazis'* position and provided incentives to them yet it was undesirable on the part of a ruler who was supreme executive also to show so much concern for this group. Mutual jealousies developed between the nobility and the *qazis*. Cases of Qazi Abdul Wahhab who was indirectly but deliberately humiliated by a noble Mahabat Khan,<sup>55</sup> *suba qazi* Syed Ali Akbar who had to pay for life in a clash with the governor of Lahore<sup>56</sup> are a few examples in point. The precedence given to the *qazis* was resented at all levels in the

administration. In a particular case a provincial governor staying at Burhanpur contemplated action against *qazi-i-suba* but apprehending Aurangzeb's confirmed bias towards the *qazis* in general probably restrained himself from doing so.<sup>57</sup> The governor of Ajmer complained against the tyranny of a *qazi* to the imperial court but no action seems to have been taken.<sup>58</sup> Over-dependence on the *qazis* at the cost of efficient administration led to so much disappointment and demoralisation among the nobility that when the news of Shaista Khan's discomfiture at the hands of Shivaji was reported in the court in 1663 A.D., someone sarcastically suggested that *qazi* be deputed against Shivaji.<sup>59</sup> Again when Mahabat Khan was directed to go against Shivaji, his reply was "There is no need of an army or despatch of forces, a *fatwa* from a *qazi* will be enough."<sup>60</sup> The *qazis* of the cities and *paraganas* too tried to behave in this manner and contended for equality with other officers of the area.<sup>61</sup> Consequently there were clashes between the *qazi* and the *faujdar*, and the *qazi* and the *kotwal* in this period.<sup>62</sup> However it is wrong to assume any significant role of *qazis* in formulating policies of the Mughal empire. Despite the respect shown to them they were aware of their actual position in the Mughal administrative set-up. In majority of cases *qazis* towed the line of government and even advanced arguments to justify the particular actions of the imperial authority. By and large it was not religion but socio-political considerations which carried more weight with Aurangzeb than his dependence on any particular group.

The following were appointed imperial *qazis* during Aurangzeb's reign :

1. Abdul Wahhab Bohra (1660-75) : He belonged to the family of Muhad. Tahir Bohra of Patan, Gujarat. He

received a special training in theology, jurisprudence and law and built up a unique reputation for the *hadis* (*taqwa wa fan-i-hadis*).<sup>63</sup> He was reputed for his work on *hadis* and theology known as *majmua-al-bahar*, *gariban-i-lughat-ul-hadis*.<sup>64</sup> Abdul Wahhab overzealously worked for putting down *mahdavi* sect of followers of Sayyid Muhd., of Jaunpur.<sup>65</sup> Before becoming *qazi* at Patan he acquired some administrative experience also when he held *faujdari* of the mahals of Bijawal and Ranwar in the Deccan at a time when prince Aurangzeb was viceroy of the Deccan around 1640 A.D. In 1653 he was appointed *qazi-i-lashker* by Aurangzeb and subsequently *qazi-ul-quzzat*.<sup>66</sup> Before taking over the new post he actively supported Aurangzeb's accession to the throne.

Our chroniclers point out that Abdul Wahhab, although a learned scholar, was a person of doubtful integrity to hold the high office.<sup>67</sup> He is stated to have recklessly abused his influence, sold the posts of subordinate *qazis* and gained an enormous wealth.<sup>68</sup> His activities were not liked by many high nobles and there was a sense of jealousy among them against him.<sup>69</sup> In 17 R-Y of Aurangzeb he became ill, left Hasan Abdal in the Deccan for Shahjahanabad where he died. His deputy, Sayyid Ali Akbar, *qazi* of Lahore, was appointed to officiate till Shaikh-ul-Islam could take over as imperial *qazi*.

2. Shaikh-ul-Islam (1675-83) : He was the eldest son of Qazi Abdul Wahhab who at the latter's death was *qazi* of Delhi.<sup>70</sup> Contrary to the ways of his father he was noted for piety and integrity of character. Khafi Khan states that of the legacy left by his father comprising lakhs of gold coins besides jewellery and other valuables, Shaikh-ul-Islam did not spend a single pie on himself from his share,



but gave most of it to the atoning his father's misdeeds.<sup>71</sup> Shikh-ul-Islam was reluctant to accept the offer of *qazi-ul-quzzat* but Aurangzeb perused him to accept the responsibility.<sup>72</sup> Khafi Khan points out that keeping in view the hard times when most of the people were indulging in false evidence, this *qazi* would rarely accept the evidence of two witnesses as true and, therefore, in most, of the cases he tried to make the palintiff and the respondent enter into an amicable agreement.<sup>73</sup> Incidentally, this also shows that witnesses were unreliable. Shaikh-ul-Islam, however, declined the customary presents and gifts even from his nearest friends and kinsmen.

Shaikh-ul-Islam enjoyed great confidence of Aurangzeb yet he did not always fall in line with his thinking. The *qazi* had disfavoured the imperial attack on Bijapur which he considered as an unnecessary war against the Muslims. Although Saqi Mustaid Khan is silent on the reasons for *qazi's* resignation,<sup>74</sup> yet both Khafi Khan<sup>75</sup> and Shah Nawaz Khan<sup>76</sup> attribute Shaikh-ul-Islam's resignation to his unpalatable advice to the emperor which ran counter to Aurangzeb's political ambitions in the Deccan. After resignation the *qazi* got permission for Hajj in 1095/1684 and, before departure, was presented with a robe of honour (*doshala*), a pamphlet on pilgrimage (*adab-i-ziarat*) and a casket full of supplicatory letters for the Prophet's tomb.<sup>77</sup> On his return Aurangzeb wished to appoint him to the post of *sadr-i-kul*. Subsequently a royal order was sent to Rao Dalpat in 1691 to escort the *ex-qazi* from Aurangabad to Sholapur.<sup>78</sup> However, the *qazi* died on his way to the court.<sup>79</sup>

3. Sayyid Abu Said (1633-85) : He was the son-in-law of *qazi-ul-quzzat* Abdul Wahhah and was appointed *qazi-i-*

*urdu* and *qazi-ul-quzzat* in 1094/November 1683 on the resignation of Shaikh-ul-Islam. Curiously the new *qazi* was appointed on the very recommendation of Shaikh-ul-Islam and not that of the *sadr-i-kul*.<sup>80</sup> It is said that the *qazi* was dismissed probably because he had incurred Aurangzeb's displeasure and was also charged with avarice and partial judgments.<sup>81</sup> However, *Massir-i-Alamgiri* states that the *qazi* had been suffering from some ailments and therefore, voluntarily resigned from office.<sup>82</sup>

4. Khawaja Abdullah (1685-98) : He possessed the qualities both of a *qazi* and a military commander. During the siege of Golconda Qazi Abdullah too tried to dissuade the emperor from the proposed invasion of Deccan on the ground that since Abdul Hasan was a Muslim and willing to obey emperor's orders the latter should forgive him and thereby avoid unnecessary bloodshed. The *qazi* remarked "peace is always good (*al sulah khair*) and under the *shariat* mercy on Muslims will not be a wrong act".<sup>83</sup> However, Aurangzeb took it as an intervention in the state policy, called *qazi's* advice as improper (*arz beja*) and directed that the *qazi* should better keep himself engaged in giving judgements only.<sup>84</sup> Aurangzeb was so much offended that he ordered him not to show his face to the emperor for some time as a mark of royal disfavour. However, the *qazi* soon regained emperor's confidence and disposed of various petitions which were received by the emperor from Gujarat.<sup>85</sup> Qazi Abdullah became influential and remained in his office intact for 13 years. In 1698 the *qazi* was temporarily appointed imperial *sadr* also in the absence of a regular *sadr* which post he held for a few months.

5. Shaikh Muhd. Akram (1698-1705) : In the initial stage he was a *qazi* at Aurangabad<sup>86</sup> and was considered unparalleled in legal knowledge and uprightness. All along he moved with the imperial camp in the Deccan from place to place. It is alleged that despite the great learning the *qazi* was revengeful by nature. Once he humiliated a popular sain, Mir Murtaza, merely because the latter could gather more people than the *qazi*.<sup>87</sup> This occurred at a time when the *qazi* was holding the post of provincial *qazi* of Gujarat also. In 1705 A.D. he received a *mansab* of 1000 *zat*<sup>88</sup> in addition to the madad-i-maash. Thus he was one of a very few *qazis* who became *mansabdars*. His presence in the imperial army is evident in a reference to his conveying personal congratulations to Aurangzeb on Mughals' victory of the fort of Waninkheda.<sup>89</sup> Soon he died of plague while moving with the Mughal army in Shaban month of 1186/1705 on way to Bahadurgarh.<sup>90</sup> Aurangzeb in recognition of his merit used to call him "the late most learned man."<sup>91</sup>
6. Mulla Haider (1705-9) : Popularly known as Qazi Haidar or Qazi Khan he was a Kashmiri who rose to the post of imperial *qazi* in 1117/June 1706 from the post of *qazi-i-suba* of Delhi.<sup>92</sup> It may be recalled that the *qazi* had once acted as Shivaji's munshi also.<sup>93</sup> For some time he was the teacher of prince Muhd. Azam.<sup>94</sup> In 1093/1683 he was conferred a *mansab* of 2000 and a stipend (*inam*) of Rs. 10,000. Later the *qazi* became teacher to Aurangzeb's grandson Azim-us-Shan and subsequently appointed *qazi* of Delhi province.

From these appointments four points emerge clearly. In the first place the imperial *qazi* was mostly selected from the provincial *qazis*. Qazi Syed Ali who officiated as chief *qazi*

for a short time till the arrival of Shaikh-ul-Islam was *qazi-i-suba* of Lahore.<sup>95</sup> Similarly before becoming imperial *qazi*, Shaikh Muhd. Akram was the *qazi* of Aurangabad<sup>96</sup> while Mulla Haidar was *qazi-i-suba* of Delhi.<sup>97</sup> This shows that there was at least some mobility from the lower post to the higher within this group. Promotional avenues were always open for the *suba qazis* to aspiring for post of imperial *qazi*.<sup>98</sup> In the second place the province of Gujarat had the privilege of sending five out six imperial *qazis* while the sixth was a Kashmiri. The author of *Mirat-i-Ahmadi* attributes this to the intellectual ferment which took place in Gujarat under the Mughals as a result of which the province had the privilege of producing competent *amins*, *qazis* and *sadrs*.<sup>99</sup> However, any prejudice of Aurangzeb for Gujarat *suba* has not been established. In fact the second and third *qazis* were related to the first which could mean that some of the *qazis* belonged to the family of the *qazis*. Yet this does not mean the emergence of hereditary position in their appointment. Thirdly, all the imperial *qazis* were men of high learning and their scholarship earned them the highest judicial post. Fourthly, unlike the imperial *sadr* the imperial *qazis* were not always given a high *mansab* to commensurate with the dignity of the office. While Qazi Akram held a rank of 1000 *zat*<sup>100</sup> and Mulla Haidar of 200 *zat*, the rest of them received *madad-i-maash* in land or *wazifa*.<sup>101</sup> Evidently, *qazis* were not expected to be good administrators but an integral part of learned theologians. This might explain their orthodox outlook as compared to the *sadrs*.

### Functions

Basically the functions of the imperial *qazi* were two-fold : (a) to give advice on religious and legal matters, whenever solicited by the emperor and (b) to dispense justice

and hear appeals. Since the imperial *qazi* was present in the imperial camp and was associated with the imperial court, his functions had become enlarged in relations to the emperor and the imperial court.

### **As an Adviser**

The imperial *qazi*, as an upholder of *shariat*, showed in presence at the installation of the new emperor as a token of having been consulted.<sup>102</sup> The *qazi's* formal approval legalised the emperor's claim and accession to the throne. When after his victory against the imperial armies around 1659 A.D. Aurangzeb asked the then imperial *qazi* to acknowledge him as the new emperor by reciting the *khutba* in his name in the Friday mosque of Delhi<sup>103</sup>, he refused.<sup>104</sup> Abdul Wahhab, the *qazi* of Patan in a bid to avert the crisis pleaded Aurangzeb's case on two grounds : (a) Shahjahan's physical and mental ailments could not ensure a smooth functioning of administration of various departments, which, if allowed to persist, would lead to a chaos in the empire and (b) through various Islamic traditions (*ravayat-i-kamil*) it became imperative that a more capable person should rule the kingdom in accordance with the *shariat*.<sup>105</sup> However, arguments advanced and examples cited by Abdul Wahhab did not convince the imperial *qazi*. Ultimately Aurangzeb invoked his authority as a supreme judge, ordered the replacement of the *qazi* by Abdul Wahhab who now received the post of imperial *qazi*.<sup>106</sup>

The *qazi-ul-quzzat* was sometimes consulted on a variety of issues involving important policy matters as also disputes of religious nature or issues connected with the *shariat*.<sup>104</sup> However, his advice was not binding on the ruler. *Qazi-ul-quzzat*, Muhd. Akram, was asked to investigate the question of treatment to be meted out to some prisoners of

war including some Muslims captured during siege of Maratha fort of Satara in 1700 A.D.<sup>108</sup> The *qazi* gave his opinion in accordance with the *hanafite* school of law that if the Hindu prisoners accepted Islam, it would be a ground to release them and that the Muslim prisoners should be kept in prison for sometime. Aurangzeb did not accept the opinion and insisted that proper conclusions should be drawn after consulting other schools of thought. The *qazi*, in consultation with the *muftis*, decided that in accordance with *Fatawa-i-Alamgiri* both the Hindu and Muslim prisoners should be executed as a deterrent.<sup>109</sup> Aurangzeb implemented the decision. The illustrations prove that the cases of war prisoners were decided more in the spirit of the law of the land than of the *shariat*. It also indicates that the imperial *qazi* was not independent and could be directed any time to revise his opinion in order to suit the convenience of the ruler. *Qazi-ul-quzzat* Shaikh-ul-Islam was consulted on the legality of invading the Deccan Sultanates of Bijapur and Golconda.<sup>110</sup> The *qazi* disfavoured the projected invasion and consequently resigned from the post. Similarly *qazi-ul-quzzat* Khwaja Abdullah in his legal opinion tried to dissuade Aurangzeb from his plans of invading Golconda but his opinion was flatly rejected.<sup>111</sup> Rather the *qazi* was reprimanded and ordered to attend to his judicial duties only. However, unlike Shaikh-ul-Islam, he did not resign but had to put up with the humiliation.

It has been argued by some scholars that in the matter of fresh taxation, the opinion of *qazi-ul-quzzat* was invariably taken.<sup>112</sup> It is true that the advice of the imperial *qazi* was sought by Aurangzeb as a general policy,<sup>113</sup> yet he did not consult him frequently on all financial matters. In fact despite consultations with the *qazi*, it was not imperative for the government to enforce it due to practical needs and force of

local customs. While *jizya* on non-Muslims<sup>114</sup> and *zakat* on the Muslims<sup>115</sup> were imposed in consultation with the orthodox *ulama* including the *qazis*, the latter were not consulted on land revenue matters. The association of the *qazis* with *jizya* is evident through their attestation of *jizya* documents as also issuing of certificates for expenditure from income of *jizya* and *zakat*.<sup>116</sup> In all probabilities Aurangzeb was obsessed with the nature of cesses as to whether these were based on *shariat* or not. To determine the true character of taxation consultation with the *qazis* and eminent scholars was quite obvious. References of this nature include representations for uniformity in taxes on sale or purchase of commodities. Qazi-ul-quzzat Muhd. Akram was asked to investigate into the question whether under the *Ishariat* collection of tax was permissible at places of purchase.<sup>117</sup> The *qazi* argued for collection of such a tax from merchants at places of purchase. The *qazi's* opinion was accepted and the diwani of the empire was instructed to enforce it. However, the new arrangement upset the revenue collection at ports because goods purchased from other places became immune from taxation at the time of voyage which reduced the revenue earned at ports on exports. On a petition from Muhd. Kazim Beg, the superintendent of port (*shah bunder*) of Khambayat, the matter was reviewed and it was decided to follow the earlier practice.<sup>118</sup> Thus *qazi's* opinion based on *shariat* was subordinated to administrative needs based on customary practice. Consequently, purchase tax on black cloth coming from Ahmadabad for export from Surat to Arabia and on other goods received from Dholka, was collected at the ports.<sup>119</sup> The non-acceptance of the *shariat* in matters of taxation can be attributed to the fact that the system of taxation under the Mughals was in its nature customary and abolition, reimposition or introduction or new taxes did not necessarily require the approval of the *qazi-ul-qazzat* who

was primarily concerned with the shariat. Therefore, the opinion of the *qazi* on many financial matters although sought due to emperor's temperament was not always acted upon.

The rejection of *qazi's* advice on important state matters and failure to follow the *shariat* in revenue administration indicate the force of local customs and usages that prevailed almost everywhere in the Mughal empire. The European travellers observe that in most part of the Mughal empire the canon law of Islam was recognised in theory only and its enforcement did not hinder the practical freedom of the executive.<sup>120</sup> Respect for local customs was so great that at times Aurangzeb's attempt to express *shariat* theories in his *farmans* and repeated expressions in *Fatawa-i-Alamgiri* remained on paper only.<sup>121</sup> However, rejection or not necessarily following up the opinion of a *qazi* did not mean the degradation of his office. The *qazis* were simply excluded due to political expediency and they had no alternative but to accept this position. There were occasions when some *qazis* could assert themselves depending on the influence and respect they commanded from the emperor and other theologians. *Qazi-ul-quzzat* Shaikh-ul-Islam's recommendation to the emperor for remission of taxes from the residents of Ahmadabad due to famine was accepted. Manucci quotes an example in which imperial *qazi*, Muhd. Akram, refused to act according to Aurangzeb's wishes.<sup>122</sup>

On reports from a section of ulama that Qazi Mir had written a book which contained objectionable material tantamount to blasphemy but was approved by the Sharif of Macca, Aurangzeb had the book examined by 400 theologians who also stamped their approval. Despite this the emperor disagreed, confiscated Mir's property, burnt the book and



directed the imperial *qazi* to pronounce a sentence of beheadal on the author.<sup>123</sup> The *qazi* did not oblige. Ultimately Aurangzeb had to pass secret instructions to do away with Qazi Mir without any reference to the imperial *qazi*.<sup>124</sup> However, such situations, though exceptional, are pointer to the fact that how religious institution was used for emperor's aspirations.

The imperial *qazi* was also consulted about the religious controversies as to whether the conduct of a particular individual was un-Islamic.<sup>125</sup> The *qazi-ul-quzzat* could ask for trial of those who preached against Islam. The imperial *qazi* directed the *sadr* of *suba* Gujarat to produce before the emperor one Syed Shahji who indulged in irreligious activities and propagated innovations to his disciples.<sup>126</sup> Sometimes the orders of the emperor were communicated to the governor through the imperial *qazi*. In accordance with the imperial orders the *qazi-ul-quzzat* directed Iftikhar Khan, governor of Ajmer, to ensure the prohibition of un-Islamic practice prevailing at Bhakkar.<sup>127</sup> It is a well-known fact that the sufi dargahs while getting *madad-i-maash* from the state had started certain practices which the orthodox ulama resented and branded as innovations (*bidat*). These innovations which had long been established at the dargahs were widely spread. These included saintly worship, visit to pirs' graves, magical formulas, supernatural stories and miracles woven around some of the pirs to win over credulous followers,<sup>128</sup> participation of women in religious functions like *urs*, lighting of lamps at the grave and musical services (*mahfil-i-sama*). The reformist *ulama* denounced these as contradictory to strict ideals in the shariat.<sup>129</sup> In the name of purifying Islam the orthodox theologians always cried for action against such cultic practices and local rituals. The pirs' connivance in these

innovations was made the target of attack and imperial directives were issued from time to time to stop these practices.<sup>130</sup> Muhtasibs were appointed to enforce imperial regulations and consultations with *qazis* had become frequent. Their advice was not palatable to the dargah practice. However behind these reforms lay the jealousies of the theologians against the growing popularity of the pirs and sufis. The official ulama class was opposed to saint worship as it posed a parallel religious authority.<sup>131</sup> The pirs or sufis were respected because of their simplicity, devotion and kind-heartedness while theologians were more feared than respected due to their association with the political authority. Since it was practically difficult to take action against the sufis or pirs,<sup>132</sup> it was fairly easy to let them down by removing the innovations at the dargahs by operating through the state. The method adopted was to send reports<sup>133</sup> to the Mughal court through the *muhtasib* and other religious functionaries highlighting some of the rituals and customary practices as anti-Islamic.

### **Judicial Duties**

The judicial duties of the *qazi-ul-quzzat* were two-fold : (a) to attend the emperor's court of justice on a specified day and advise him on cases pertaining to the *shariat* and (b) to hold his own court for disposal of civil and criminal cases and to hear appeals, if preferred in his court.

The imperial *qazi* was regularly consulted by Aurangzeb when the latter held his court of justice in the capacity of supreme judge of the empire. Aurangzeb had reserved Wednesdays for administering justice.<sup>134</sup> The court was held till noon in the *diwan-i-khas* in the presence of the *qazis*, *muftis*, *ulama*, *daroga-i-adalat* and *kotwal*.<sup>135</sup> Some European travellers observed *qazi's* seat in the imperial court

of justice.<sup>136</sup> Joined with the *qazi* were the two *muftis* who acted along with the *qazi*.<sup>137</sup> The proceedings of the court were opened in the presence of the *qazis* and the *muftis*. The emperor's court was theoretically styled as *diwan-i-mazalim*<sup>138</sup> because of trail of political offenders and for hearing complaints against the oppressive officers. Sometimes *diwan-i-am* was also converted into *diwan-i-mazalim*.<sup>139</sup> Aurangzeb orders in 1702 A.D. that his court of justice (*diwan-i-adalat*) be officially designated as a court to deal with oppression (*diwan-i-mazalim*).<sup>140</sup> Offences against imperial orders (*zawabit*) were also tried in this court. The *mazalim* was more or less a parallel system of executive and administrative laws from which the *qazi* was usually excluded. The imperial *qazi* was consulted at a time when orders were to be passed in accordance with the *shariat*. The plaints of aggrieved persons were presented through *daroga-i-adalat*.<sup>141</sup> Aurangzeb personally examined the cases to find out the truth.<sup>142</sup> *Amins* were appointed to make an on-the-spot study of complaints and send reports to the emperor or *qazi-ul-quzzat*.<sup>143</sup> According to Bhim Sen number of complaints had gone up in the time of Aurangzeb.<sup>144</sup> On the basis of facts so ascertained all cases coming under canon law were decided according to the Quranic injunctions in consultation with the *qazi-ul-quzzat*. In a typical case relating to wrongful confinement both of plaintiff and defendant Aurangzeb ordered the transfer of entire case to the imperial *qazi* for decision according to the *shariat*.<sup>145</sup> While disposing of civil and criminal cases the *qazi-ul-quzzat* was authorised to direct the governor of the province where the offence was committed to investigate into the complaint of the aggrieved party. The governor either himself or through the local *qazi* enquired into the genuineness of the complain or claims of the parties and sent his findings to the *qazi-ul-quzzat*.<sup>146</sup> We have on record a case in which the accused successfully pleaded in

the emperor's court that his case should be tried and decided in the court of the *qazi-ul-quzzat* according to canon law.<sup>147</sup> After the judgement was delivered, officers took prompt action to execute it. Sometimes judgements were despatched to the provincial governors for execution under the imperial seal and the seal of the *qazi-ul-quzzat*.<sup>148</sup>

### **Qazi-ul-Quzzat's Court**

Since the *qazi-ul-quzzat* was essentially a *qazi* of the capital town also, he followed the same procedure for deciding a case in his court as any other *qazi* did.<sup>149</sup> He took up cases from people residing in the capital for trial and decision. He possessed the original power of trying the accused, although sometimes he heard appeals also against the judgement of subordinate *qazis* both in criminal and civil cases.<sup>150</sup> While hearing appeals it is not clear whether he directed any subordinate court to reconsider or review the decision. We have not come across any such reference. Similarly, we are not in a position to say whether a particular case was tried by a particular *qazi* and that the same case was tried again by more than one *qazi* at different levels, especially when *qazis* at all levels was vested with the original power of holding fresh trials. From the scattered references in contemporary sources we can form an idea of imperial *qazi's* judicial powers. Whenever cases of murder, adultery, apostasy, etc. occurred among the nobility and reported to the emperor, the latter immediately took action and transferred the case to the imperial *qazi* for investigation and trial in his court. It is stated that a high noble Firuz Jang Khan executed Muhd. Aqil on the charge of highway robbery without caring to find out sufficient proof. Aurganzeb directed that all such murder cases were to be placed before the *qazi-ul-quzzat* whose trial was obligatory before awarding

punishment in accordance with the *shariat*.<sup>151</sup> On a representation from the *sayyids* over the murder of their kinsmen orders were passed that they should go to the *qazi-ul-quzzat* for justice in accordance with the *shariat*.<sup>152</sup> Shaikh Jahan, *qiledar* of Asirgarh, was reported to have allegedly committed adultery with Sambha's wife who was confined in the fort. On receipt of the official version Aurangzeb ordered Salabat Khan to place the accused under arrest (*dar quaid bashad*) and produce him in the court after disarming him. The Khan tried to commit suicide and in the wounded condition was handed over to the *qazi-ul-quzzat* for trial and punishment.<sup>153</sup> In another case Aurangzeb directed that orders to send an appellant to jail were illegal and that he should be set free and the case filed by him should be transferred to the *qazi-ul-quzzat* for decision. It was also added therein that the *qazi* who had full jurisdiction to try the case must be obeyed.<sup>154</sup>

*Qazi-ul-quzzat* Shaikh-ul-Islam tried the governor of Lahore, Qawamuddin Khan, in his court for his alleged connivance at the murder of *suba qazi* by the *kotwal*, Syed Ali Akbar. While the *kotwal* was handed over to the deceased's heirs for retaliation of blood (*qisas*), the governor was tried by the imperial *qazi*. However, the accused died before the *qazi* could deliver his judgement.<sup>155</sup> In another case a noble killed his maternal uncle in the open court of audience. The right of blood was refused in the court of the *qazi* and the latter finally decided to execute the murderer on 4 Zilhij 1083/13-3-1673.<sup>156</sup> In a particular dispute relating to succession to amir's property one Shaikh Abdul Rashid was appointed as *wakil* (agent) to represent on behalf of a widow.<sup>157</sup> A full description of the proposed *wakil* was given at the end of the petition.<sup>158</sup>

*Appeals* : The imperial *qazi* possessed the power of hearing appeals against the judgement of lower courts. He had the power to hear appeals from courts of governor and that of the *qazi* of the suba.<sup>159</sup> Jadunath Sarkar assigns the hearing of appeals as the main function of the *qazi-ul-quzzat*.<sup>160</sup> It is wrong to assume that imperial *qazi* heard appeals only. The appeals were mostly presented to the emperor, who in the capacity of being a supreme ruler, associated the imperial *qazi* and other learned scholars for disposal of such appeals.<sup>161</sup> In the Mughal set-up where all the courts had the original power of trying the accused, it seems logical that a very few cases of appeal went to *qazi-ul-quzzat*. Even in the latter's court cases particularly, those which had a religious hearing were reopened fresh for trial. The judgement was delivered either to confirm the sentence already awarded or acquit the accused. Since the period of imprisonment was rarely specified there was no intermediate punishment. Punishment in the form of fine was also discouraged.<sup>162</sup>

### **Miscellaneous Functions**

The imperial *qazi* acted as a registrar for marriages in the royal family. He also took note of the *mehr* (bride money) fixed for the bride. *Maasir-i-Alamgiri* contains information on several marriages of the royal family with which *qazi-ul-quzzat* was invariably associated.<sup>163</sup> Qazi Abdul Wahhab performed the marriage ceremony of prince Muhd. Sultan in 1082/1672.<sup>164</sup> Mulla Muhd. Yaqub acted as *qazi's* agent and Mir Sayyid Muhd. Kanauji and Mulla Iwaz Wajih as the two witnesses.<sup>165</sup> A sum of two lakhs of rupees was settled as the *mehr*.<sup>166</sup> The *qazi* also performed the marriage of Zubdat-us-Nisa Begum. A *mehr* of four lakhs of rupees was settled by bridegroom on the occasion.<sup>167</sup> Qazi Shaikh-ul-Islam was present at the marriage of Muhd. Azam in 1091/1681 and the

*mehr* was fixed at 500 dirham, perhaps following the example of Prophet's marriage with Khadija.<sup>168</sup>

Eminent nobles present in the capital and other dignitaries closely associated with the royal family had their civil transactions registered with the *qazi-ul-quzzat*. A noble Ruhullah Khan, at the time of his death, had his will made before Qazi Khwaja Abdullah some time in June 1692.<sup>169</sup> The *qazi-ul-quzzat* affixed his seal on the sale, transfer or mortgage or property belonging to the nobles.<sup>170</sup> In addition to the seal of capital city *qazi*, we find the imperial *qazi's* seal also on these documents.<sup>171</sup> These functions were sometimes performed by *qazi's* deputy also.

Since *qazi-ul-quzzat* was connected with the royal family, he attended the state funerals also either in person or through his deputy. He used to make arrangements for washing the corpse and preparing the shrouds in order to make the occasion perfect from religious angle. At the death of Shahjahan on 26 Rajab 1075/22-1-1666 Qazi Qurban was among those who entered the private chamber (*ghusalkhana*) of Shahjahan and was engaged in making necessary preparations for the funeral and burial.<sup>172</sup> At Aurangzeb's death, the *qazi-ul-quzzat* along with other scholars and pious men was busy in furnishing and shrouding the corpse for burial in accordance with emperor's last will.<sup>173</sup> Similarly, on his death bed, a noble Mir Ruhullah Khan had requested the emperor to send for the imperial *qazi* who was a sunni to wash and shroud his corpse.<sup>174</sup> The imperial *qazi* was sometimes entrusted with the work of distributing royal charities on special occasions.<sup>175</sup>

### **Appointment of Wakil-i-Shar**

Under Aurangzeb the *qazi-ul-quzzat* was given an additional duty of sanctioning the appointment of a *wakil-i-shar* in the capital and in the provinces in accordance with imperial orders. It appears from a *farman* issued in the 19<sup>th</sup> RY/1676 A.D. that the office of *wakil-i-shar* was created for the first time with a view to settle the legal claims (*dawa-i-shar*) of the people against the government.<sup>176</sup> The claimant was to approach the officer for his dues or claims after proving them before him.<sup>177</sup> However, there does not seem to be any separate court for *wakil-i-shar*. Rather he had to sit in the *qazi's* court confining himself to the duty assigned to him.<sup>178</sup> In a later period he was given a staff of three clerks and one accountant<sup>179</sup> and his remuneration was fixed at Re. 1 per day as *madad-i-maash*.<sup>180</sup> According to *Nigarnama-i-Munshi* one Shaikh Abdul Haq was appointed *wakil-i-shar* for the *suba* of Gujarat by the imperial *qazi* to look after claims and counter-claims from the state treasury.<sup>181</sup> He was also entrusted with the claims of the heirless people and to look after escheated property of the deceased officers.<sup>182</sup>

The famous Surat case of 1678 A.D. regains its importance following the appointment of Muhd. Muhsin to the post.<sup>183</sup> The merchants of Surat Haji Zahid and Pirji Bohra (*malikut-tajjar*) had paid Rs. 5 lakhs on behalf of the Surat merchant community to Murad Baksh as a loan on the eve of war of succession and had also secured a bond under prince's seal for repayment.<sup>184</sup> The *wakil-i-shar* submitted a petition to Aurangzeb about the claims payable from the treasury. He elaborated his arguments that it was the duty and obligation of the heir of the deceased who possessed property to pay the debt of the deceased.<sup>185</sup> The arguments were further strengthened by the actual verification of the entries made in the books of the treasury.<sup>186</sup> After obtaining the proofs and finally in consultation with the *qazi-ul-quzzat*, Aurangzeb



accepted the claims of Surat merchants and promised to repay the amount.<sup>187</sup>

According to Ali Muhd. Khan the office of *wakil-i-shar* although a new additon, became permanent.<sup>188</sup> However, there is no reference to suggest that any dispute of escheat of a *mansabdar's* property had ever come up before *wakil-i-shar*. It seems likely that the procedure for settlement of dues under escheat system was kept outside the purview of *wakil-i-shar* as also that of the imperial *qazi*.<sup>189</sup> Again *wakil-i-shar* cannot be equated with the *qazi* because he had no separate court and no legal position to deliver any judgement. At best he was entrusted with representing the cases on behalf of some influential people for matters relating to his jurisdiction Khafi Khan states that while presenting claims both the interested parties and *sharia wakils* often produced false witnesses.<sup>190</sup>

## References

1. *Qazi-ul-quzzat* accompanied the imperial camp and was therefore designated as *Qazi-i-lashkar* or *qazi-i-askar*. Qazi Afzal who was *qazi-i-lashkar* of Shahjahan was killed during the war of succession; *Futuh-i-Alamgiri* of Ishar Das Nagar, f 23b; *Muntakhab-ul-Lubab*, ii, 414-5. The first reference to the institution of the *Qazi-i-Lashkar* appears in 8<sup>th</sup> century Egypt. For a full discussion on the origin of the office of the *qazi*, see Encyclopaedia of Islam, under kadi.
2. *Muntakhab-ul-Tawarikh* ed. & tr., Ranking, i, 334.
3. *Muntakhab-ul-Lubab*, ii, 414-5.

4. *Mirat-i-Ahmedi*, i, 248, Towards the close of Shahjahan's reign Syed Hidaytullah was the *sadr-us-sudur* while Qazi Abdul Rehman was *qazi-ul-quzzat*.
5. The *sadr* was concerned principally with the grants of madad-i-maash including charities.
6. *Futuh-at-i-Alamgiri*, f. 70b, 71a and 71b.
7. *Hidaya* (tr., Hamilton), xx, 335. Aurangzeb used to say : 'There is no function greater than *qazi's*, cf. In the early 18<sup>th</sup> century, however, heirs of a *qazi* tried to claim their position by sending petition to the emperor or the *sadr*. (*Faramin-Salatin*, Doc. 98, pp. 143-4).
8. Abu Hanifa died in a prison in Baghdad because, as a common version goes, he had refused to serve as the *qazi*. However, his follower Abu Yusuf, accepted *qaziship* of Baghdad in 785 A.D. He was the first person to receive the title of *qazi-ul-quzzat* by Harun-al-Rashid, W. Montgomery Watt, *The Majesty that was Islam* (London), 1974, p. 122.
9. *Waqiat-i-Alamgiri* of Aqil Khan Razi (ed. Zafar Hasan p. 40). The author of *Mirat-ul-Alam* says that Aurangzeb was intimately associated with the *mashaikhs*, *sufis* and other *ulama* of the period even before he became the emperor (f. 448a).
10. *Massir-ul-Umara*, i, 235-41; *Maasir-i-Alamgiri*, p. 239.
11. Shahjahan had started the practice of giving *mansab* to the imperial *qazi* as an exceptional case, *Badshahnama*, ii, 628, 737.
12. *Maasir-i-Alamgiri*, pp. 234, 251.

13. P. Saran, *Provincial Government of the Mughals*, pp. 371-2; Irfan Habib, *op. cit.*, p. 311.
14. *Muntakhab-ul-Lubab*, ii, 216.
15. *Futuh-i-Alamgiri*, f. 36a-36b, *Maasir-ul-Umara*, i, 253-41; *Mirat-i-Ahmadi* i, 248.
16. *British Museum Add.* 26238, f. 14 quoted by M.B. Ahmad, *op. cit.*, p. 265.
17. *Ruqqaat-i-Hasan* quoted in *Studies in Aurangzeb's Reign*, (1919). Sarkar, p. 226.
18. *History of Bengal*, ed., Jadunath Sarkar, p. 343.
19. *Maasir-i-Alamgiri*, p. 224
20. See chapter 1 on Sadarat.
21. It is difficult to agree with the view that provincial and local *qazis* were appointed by the *qazi-ul-quzzat* (Sarkar, *Mughal Administration*, 1953, p. 23; I.H. Quaraishi, *Administration of the Mughal Empire*, p. 183). The *qazi-ul-quzzat* could only recommend some persons for appointment as *qazis*.
22. Because of uniformity in the nature of their duties, qualifications of the *qazis*, whether in the centre or in the provincial capitals or at the *pargana* level, would remain the same.
23. *Hidayat-ul-Quwaid*, f. 20 (AMU).
24. *Siyaq Nama*, pp. 86-7; *Waqiat-i-Ajmer*, i, 35-6.
25. *Hidaya*, tr. Hamilton, ed. Grady, p. 399; *Siyasatnama*, p. 33 quoted in H.K. Sherwani, *Muslim Political Thought and Administration*, pp. 136-8.

26. *Hidaya*, tr. Hamilton, p. 334. A woman could also become a *qazi* but jurists differ as to her jurisdiction over all or a limited number of disputes.
27. *Fatawa-i-Alamgiri*, chapter III, *Hidayat-ul-Quwaid*, Bab II, ff. 20-1. cf. Balban's testament addressed to Prince Muhd. which gives guidelines for appointment and qualification of a *qazi* (*Tarikh-i-Firuzshahi*, Barani, Text, 50).
28. *Fatawa-i-Alamgiri* Bi, III; *Hidaya*, Hamilton, p. 399.
29. *Ruqqaat-i-Alamgiri*, No. XXXVIII, also CLXX.
30. *Futuh-at-i-Alamgiri*, f. 70b, 71a-b.
31. *Muntakhab-ul-Lubab*, ii, 247, 438; *Maasir-ul-Umara*, i, 235-41.
32. *Muntakhab-ul-Lubab*, ii, 438-0.
33. *Maasir-ul-Umara*, i, 235-41; *Mirat-ul-Alam*, ed, Sajida S. Alvi (1979), f. 456b.
34. *Mirat-ul-Alam*, f. 457b.
35. *Muntakhab-ul-Lubab*, ii, 236.
36. *History of Aurangzeb*, Sarkar, iii, 86.
37. *Waqiat-i-Ajmer*, i, 161; Racial or birth ties and social station had long come to be accepted in the consciousness of the Muslims also.
38. *Maasir-ul-Umara*, i, 235-41; cf. *Encyclopedia of Islam*, Vol. II on *qazis*.
39. Since the post of the *qazi* was basically same with slight variations at each level, a general analysis has been made.

40. *Muntakhab-ul-Lubab*, ii 606; *Mirat-l-Ahmadi*, i, 379.  
cf. "Cazee is the Mahomedan judge ecclesiastical who supports and is supported by Alcoran. He is extremely venerated" (R. Orme, *Fragments*, p. 259).
41. *Mughal Archives*, ed, Z. Shakeb, p. 326; Bilgram Collection Doc. 1, 3, 5, 7, etc.
42. *Nigarnama-i-Munshi*, pp. 16-17.
43. *Selected Documents of Aurangzeb's Reign*, AR 947 dt. 1071/1661 p. 15.
44. *In the Bylanes of History : Some Persian Documents*, Grewal, Doc. I.
45. *Selected Documents of Shahjahan's Reign*, dt. 5 Rajab 1058/1648, p. 162.
46. *Bilgram Doc.* 1, 3, 7, 15, 17, 31, 33, etc.
47. Allahabad Doc. 18, 43, 51 A, 55-6, etc. Sambhal Doc. Farsia No. 6, (54); *Mirat-i-Ahmadi*, i, 351.
48. *Muntakhab-ul-Lubab*, ii, 256-8; *Maasir-ul-Umara*, iii, 109-16.
49. *Ahkam-i-Alamgiri*, tr. Sarkar, No. 34, p. 91; *Nigarnama-i-Munshi*, pp. 116-7; also *Ruqqaat-i-Alamgiri*, Bilimoria, letter No. CXVII, CXVII.
50. *Akham-i-Alamgiri*, Sarkar, ff, 35a-35b.
51. *Muntakhab-ul-Lubab*, ii, 437.
52. *History of Aurangzeb*, Sarkar, v, 421-2.
53. Manucci, *op. cit.*, iii, 264.

54. *Muntakhab-ul-Lubab*, ii, 560; *Maasir-ul-Umara*, iii, 109-15.
55. *Muntakhab-ul-Lubab*, ii, 215-6.
56. *Ibid.*, pp. 256-8; *Maasir-i-Alamgiri*, p. 28.
57. Mamuri A.T., p. 414 as quoted by Anees Jahan Syed in *Aurangzeb in Muntakhab-ul-Lubab*, (1977), p. 248.
58. *Waqiat-i-Ajmer*, i, 190.
59. *Muntakhab-ul-Lubab*, ii, 256-8.
60. *Ibid.*, pp. 216-7.
61. *Ibid.*, pp. 256-8; *Maasir-ul-Umara*, iii, 109-15, Often Qazis accepted consideration money and humiliated the people *Akhbarat*, 23 Ramzan 38 RY/18 May 1964; *Muntakhab-ul-Lubab*, ii, 278, 377.
62. See chapter on Local Qazi (Judicial).
63. *Maasir-ul-Umara*, i, 235-41.
64. M.B. Ahmad, *op. cit.*, pp. 145-6.
65. For Mahdavi Movement in India see, Qamaruddin's article "Palanpur as the missionary base of the Mahdawis" in *Studies in Islam*, V, 232-57. The author argues that the execution of Sayyid Raju and his 22 followers at Ahmedabad was not by the orders of prince Aurangzeb but at the instigation of orthodox *ulama* and the *kotwal*. Also see, S.A.A. Rizvi, *Muslim Revivalist Movement in Northern India*, (1965), Lucknow.
66. *Muntakhab-ul-Lubab*, ii, 216; *Maasir-ul-Umara*, i, 235-41.

67. Manucci's allegation that the Qazi used to drink wine secretly has not been corroborated by any Persian source.
68. *Mutakhab-ul-Lubab*, ii, 216.
69. *Ibid.*, Sarkar, *History of Aurangzeb*, iii, 74-6.
70. *Maasir-i-Alamgiri*, p. 148.
71. *Muntakhab-ul-Lubab*, ii, 247, 438-9; *Maasir-ul-Umara*, i, 235-41. The legacy supports the view that Abdul Wahaab might have amassed enormous wealth through illegal means in the capacity of an imperial *qazi*.
72. While appointing Shaikh-ul-Islam as imperial *qazi* Aurangzeb is reported to have said "After enquiring about your knowledge and condition I have appointed you for the work of a *qazi* and to work for it is actually a greater form of worship (*Futuh-at-i-Alamgiri*, ff. 70b, 71a, 71b). Our chroniclers are unanimous in stating that the *qazi* stood unsurpassed in honesty and piety (*Ibid.*, *Muntakhab-ul-Lubab*, ii, 434-5).
73. *Muntakhab-ul-Lubab*, ii, 379.
74. *Maasir-i-Alamgiri*, p. 230.
75. *Muntakhab-ul-Lubab*, ii, 438-9.
76. *Maasir-ul-Umara*, i, 237-40.
77. *Muntakhab-ul-Lubab*, ii, 252.
78. *Nuskha-i-dilkusha* of Bhim Sen, f. 102 (b); *Muntakhab-ul-Lubab* ii, 438-9.
79. *Muntakhab-ul-Lubab*, ii, 438-9.

80. *Maasir-i-Alamgiri*, p. 239.
81. *History of Aurangzeb*, Sarkar, iii, 86.
82. *Maasir-i-Alamgiri*, p. 314.
83. *Muntakhab-ul-Lubab*, ii, 343.
84. *Ibid.*
85. *Mirat-i-Ahmadi*, I, 310.
86. *Muntakhab-ul-Lubab*, ii, 563-4.
87. *Ibid.*, pp. 565-5. At times *qazis* were jealous of sufis because of latter's popularity among the common folk.
88. *Maasir-i-Alamgiri*, p. 506.
89. *Nuskha-i-dilkusha*, f. 153a.
90. *Maasir-i-Alamgiri*, p. 510.
91. *Ibid.*
92. *Ibid.*, pp. 513-4.
93. *Ibid.*, *History of Aurangzeb*, iii, 86.
94. *Maasir-i-Alamgiri*, pp. 513-4.
95. *Ibid.*, p. 143.
96. *Muntakhab-ul-Lubab*, ii, 563-4; *Mirat-i-Alamgiri*, p. 240.
97. *Maasir-i-Alamgiri*, p. 514.
98. cf. Provincial *qazis* could be promoted as *qazi-ul-quzzat* during the Sultanate period also. See *Tabqat-i-Nasiri* (tr. Raverty), pp. 686, 694.



99. *Mirat-i-Ahmadi*, i, 199, 258, 292.
- 99\* Theoretically each *qazi* established his credibility through his learning and wisdom. There was no priesthood. In the context it is rather improper to call *qazis* as a class. In practice, however, family ties could be an effective force to reckon with and appointments were often awarded on the basis of incumbent's connections with influential nobles.
100. *Maasir-i-Alamgiri*, p. 506.
101. cf. During Shahjahan's period also only one imperial *qazi* held a *mansab* of 1000/100 (*Badshahnama*, ii, 628, 737; *Amal-i-Salih* of Kamboh, iii, 470).
102. M.B. Ahmad, *op. cit.*, p. 144.
103. *Futihat-i-Alamgiri*, f. 36a-36b; *Mirat-i-Ahmadi*, i, 248.
104. *Ibid.*
105. *Ibid.*
106. This probably gave encouragement to *the ulama* who could see that Aurangzeb was keen to get his actions stamped by a religious verdict.
107. The Mughal government was fully convinced that the directions of orthodox *ulama* ran counter to consideration of state policy. The rulers therefore, discreetly abided giving them undue importance and kept them in proper form since the latter in order to uphold their special position would try to raise a cry for measures against the Hindus at the earliest opportunity. Although Aurangzeb took various steps on his own in initiative primarily in consonance with his political

compulsions yet certain measures viz. imposition of Jizya on 20 April 1679, for whatsoever reason, was made in consultation with the orthodox *Ulama* including the *qazis* of the empire (see the text of Jizya in farman in *Mirat-i-Ahmadi*, i, 263).

108. *Ahkam-i-Alamgiri*, ed., Sarkar, ff. 35b, 36b.

109. *Ibid.*

110. *Muntakhab-ul-Lubab*, ii, 438-9; *Maasir-i-Alamgiri*, p. 239; *Maasir-ul-Umara*, i, 237-40.

111. *Muntakhab-ul-Lubab*, ii, 343.

112. M.B. Ahmad, *op. cit.*, pp. 144-45.

113. By and large Mughal emperors were wise and avoided consulting the qazi. However, at times, Aurangzeb was an exception. Cf. An imperial farman issued in 8 RY of Aurangzeb speaks of abolition of illegal exactions and opposessive practices indulged in by some of the officials of Gujarat (*Mirat-i-Ahmadi*, i, 259-65). The same was the case with *madad-i-maash* (village expenses by public assesement) grants. In 1682 A.D. another imperial farman was issued forbidding *abwabs* like malba, bhat, baladasti, tahsildari, sadir wa warid, etc. (*Ibid.*, i, 304).

114. *Mirat-i-Ahmadi*, i, 263.

115. *Ibid.*, pp. 298-9.

116. See Local Qazi.

117. *Mirat-i-Ahmadi*, i, 340.

118. *Ibid.*, pp. 340, 243.

119. *Ibid*, p. 343.
120. Bernier, *Travels in the Mughal empire*, p. 236; Manucci, 1, 197-204; also *Mirat-i-Ahmadi*, i, 282.
121. Aurangzeb's *farman* to Muhd. Hashim *diwan* of *suba* Gujarat in 1079/1669, among other things, refers to *shariat* principles involved in Indian agrarian system viz. distinction of revenue from Muslim and non-Muslim cultivators as *ushri* and *kharaji*, *Mirat*, i, 268/72. However, in practice, we do not find any such distinction or separate existence of such lands in the Mughal land revenue documents. It is, therefore, clear that *shariat* was not applied in land revenue cases and, therefore, *qazi* excluded from this. Aurangzeb's *farman* dt. 5 Rabi I, 25 RY for collection of *zakat* from Muslims @ one out of forty, after due regard to condition of the payees (*Mirat-i-Ahmadi*, I, 298-9) with the help of *amin* of *zakat* too met with almost failure. Although *qazis* and *muftis* had been empowered to deal with *zakat* disputes yet a document contained in *proceedings of IHRC* (1960), XXXV (ii), pp. 37-8 on *Inayatnama* informs us in clear terms why *zakat* could not be enforced.
122. Manucci, iv 111-3 (reprint, pp. 118-9); I.H. Qureshi, *op. cit.*, p. 187.
123. *Ibid*.
124. *Ibid.*, *Muntakhab-ul-Lubab*, ii, 760.
125. *Muntakhab-ul-Lubab*, ii, 760.
126. *Mirat-i-Ahmadi*, i, 320-1.
127. *Waqiat-i-Ajmer*, i, 53. (For a detailed discussion on this aspect, see Provincial and Local Qazis).

128. The hagiological literature is full of these references. Even a traveler like Bernier refers to ‘unusual gushing out of water from a spring and invocation of the power of the deceased pir (Travels in the Mughal Empire) (Tr. Constable & Smith), pp. 410-16.

Abbe Carre’s eye witness account of the ceremonies at the dargah of sayyid Muhd. Gesudaraz at Gulbarga in Karnataka has been cited by Richard M. Eaton in *Suris of Bijapur (1300-1700)* (Princeton, 1978) p. 229. According to a modern scholar pir phenomena provides a meaningful frame of reference for and a point of interection between Islam and converts.” Asim Roy, *The Islamic syncretistic Tradition in Bengal*, New Delhi, 1983, pp. 207-08.

129. Shaikh Ahmad Sirhirdi was opposed to tomb worship. Also see, *Muslim Shrines in India* (ed) Christian W. Troll, Oxford, 1989 for various aspects of dargah life.

130. *Mirat-i-Ahmadi*, I, 263.

131. According to Alam Khundmiri, a specialist on devotional life of Kashmiri Muslims remarks. “If you remove saint-worship, you remove Islam. They cannot understand either Book or the Prophet, apart from local saints who made both alive form them.” (Bruce B. Lawrence, “Lectrures on Sufism.” *Studines in Islam*, Vol. xvii, No. 3-4 July/October 81. This might validity apply to other parts of India.

132. Muhtasib Abdul Qawi and Mulla Iwaz Wajih were famous for their reports against such ‘irreligious’ cultic practice and heresy.

133. Khwaja Muinuddin chishti. (*Maasir-i-Alamgiri*, pp. 10-11). He visited Ajmer after gaining victory in the war of succession fought on 24 Jumadi II 1069/9-3-1659 at Deorai, four miles South of Ajmer (*Alamgirnama*, p. 330) Again he visited Ajmer in 1679 & 1680 (*Maasir-i-Alamgiri*, pp. 106.107) such visits raised the prestige of the dargah in the eyes of the populace and also resulted in transformation of the city as is reflected in the monuments. Also see Tirmizi, Ajmer through inscriptions, New Delhi, 1968. It is added that some of the sufis were expert in theology. A Sayyid pir Bukhari was appointed as imperial Sadr during Shahjahan's reign.
134. *Alamgirnama*, p. 1102; *Mughal Administration*, Sarkar, p. 93.
135. *Alamgirnama*, p. 1102.
136. Bernier, *Travels*, p. 263.
137. Manucci, ii, 419.
138. *Alamgirnama*, p. 1078; The *mazalim* involved a superior justice whose field of action was not limited by the *shariat*. Punishment to political prisoners (*siyasat*) was awarded under this in the name of public expediency (*maslah*). The emperor acted as a summary judge involving his position as *hakim-i-adil*. The criminal prisoners could be sold in slavery or put to death at the whim of the emperor. Aurangzeb, probably, avoided *mazalim* and eliminated his possible enemies by bringing their cases for trial in the *qazi's* court with secret instructions (*Muntakhab-ul-Lubab*, ii, 343). For a detailed discussion on *mazalim*, see Mez Adam, *Renaissance of Islam* (tr. Khuda Baksh), p. 231; *JRAS of*

*Great Britain and Ireland*, 1011, H.F. Amedroz “The Mazalim jurisdiction in the Ahkam Sultaniyya of Marwardi”. I.H. Qureshi, *op. cit.*, p. 107.

139. *Maasir-i-Alamgiri*, p. 460.
140. *Ibid.*
141. *Muntakhab-ul-Lubab*, ii, 379 *Mirat-i-Ahmadi*, I, 371.
142. *Mirat-i-Ahmadi*, i, 275-76.
143. Manucci, ii, 462. The *amins* used to send reports sometimes after preparing the *mahzar* on the truth of falsity of the events, *Nuskha-i-dilkusha*, f 127b. Also see, AR 18 dt. 1081/1671, *Selected Documents of Aurangzeb's Reign*, pp. 89-90; Khwaja Yasin's *Glossary of Revenue Terms*, ff. 39b-40b.
144. *Nuskha-i-dilkusha*, f. 157a. cf. We read of Shahjahan chiding the *daroga-i-adalat* for not presenting even twenty complaintants to him on Wednesday, the day of justice.
145. *Ahkam-i-Alamgiri*, (ed. And tr. Sarkar), p. 91; Also *Ruqqat-i-Alamgiri*, (tr. Bilimoria), No. CXVIII.
146. *Waqai-i-Ajmer*, i, 13, 17, 53, 91-2.
147. *Islamic Culture*, S.R. Sharma, “Aurangzeb's Share in Public Administration” (October 1940) pp. 447-53.
148. Sarkar, *Mughal Administration*, chapter CII, pp. 24-30. cf. The executing officials should always extend their helping hand to the judiciary and see that the decisions are property executed (*Siyasatnama* as quoted in Sherwani, *Muslim Political Thought and Administration*, p. 138.

149. For a fuller discussion on the procedure adopted and staff attached to the *qazi's* court see chapter on Local Qazi (Judical).
150. *Mirat-i-Ahmadi*, i, 248, 273, 339.
151. *Ahkam-i-Alamgiri*, (ed. And tr. Sarkar), p. 91 (*Aneedots* No. 34).
152. *Maasir-i-Alamgiri*, p, 366.
153. *Futuh-at-i-Alamgiri*, f. 138a.
154. *Indian Office Lib, Ms. 370*, as quoted by M.B. Ahmadm, *op. cit.*, p. 257; also *Ruqaat-i-Alamgiri*, (tr. Bilimoria) No. CXVII; the *qazi-ul-quzzat* could supervise jails also.
155. *Muntakhab-ul-Lubab*, ii, 257; *Maasir-i-Alamgiri*, p. 188.
156. *Maasir-i-Alamgiri*, p. 126.
157. Selected Documents of Aurangzeb's Reign, AR 4963, dt. 8 Zilhijja 1075/1665, pp. 49-50.
158. *Ibid.*, the description included physique, identification marks, height, age, etc.
159. M.B . Ahmad, *op. cit.*, pp. 144, 172, 203.
160. Sarkar, *Mughal Administration*, p. 27.
161. An appeal for wrongful execution of Chhabila Ram was submitted in Shahjahan's court against Qazi Muhd. Maula's judgement. However, Aurangzeb wanted the appeal not to come up and with this aim he wrote a latter to Sadullah Khan (Sakar, History of Aurangzeb, i, 173-74.
162. *Mirat-i-Ahmadi*, i, 270-3.

163. *Maasir-i-Alamgiri*, pp. 119-21, 124-5, 159-60, 210-1, 247, 284; *Badshahnama*, i, 458; ii, 305.
164. *Maasir-i-Alamgiri*, p. 124.
165. *Ibid.*
166. *Ibid.*
167. *Ibid.*, pp. 119-21, 125
168. *Ibid*, p. 210. For more references see chapter on Local Qazi.
169. *Aukam-i-Alamgiri*, f. 10a. (ed. And tr. Sarkar as *Anecdotes*), p. 127.
170. *Faramin-i-Salatin*, Doc. 64 dt. II Ramzan 1087/1676.
171. *Ibid.*
172. *Maasir-i-Alamgiri*, p. 53.
173. *Ibid.*, p. 522. The place where Aurangzeb was buried was called Khuldabad-8 kos from Aurangabad and 3 kos from Daulatabad; *Khuld-makani* became the posthumous title for Aurangzeb.
174. *Ahkam-i-Alamgiri*, f. 68 (ed. And tr. Sarkar as *Anecdotes*, p. 142).
175. *Maasir-i-Alamgiri*, p. 529; *Ruqaat-i-Alamgiri*, (tr. Bilimoria), No. CVII. The occasions were during the month of Ramzan or on the eve of construction of a tomb. (*Maasir-i-Alamgiri*, pp. 47, 529).
176. *Muntakhab-ul-Lubab*, ii, 243-6.
177. *Ibid.*



178. *Ibid.*, cf. A sale deed dt. 17 Jamadi-us-Sani, 47 RY/1703 was executed before the *wakil-i-shar* (Allahabad Doc. 223).
179. *Ibid.*, p. 252; *Mirat* (Suppl.), p. 149.
180. *Mirat* (Suppl.) o. 149.
181. *Nigarnama-i-Munshi*, p. 151.
182. *Ibid.*
183. *Muntakhab-ul-Lubabb*, ii, pp. 250-1.
184. *Ibid.*, Apart from customary cesses princes fighting in the contest for throne could force merchants to make heavy contributions as was done by Murad.
185. *Muntakhab-ul-Lubab*, ii, pp. 250-1.
186. *Ibid.*
187. *Ibid.*, Muhd. Ali Khan who was the portion of Muhd. Muhsin submitted on his behalf , “should it be proved according to *zabita* (regulations) of the *diwani* or according to the *shariat*?” Aurangzeb replied “If it is proved either way, will meet his claim, (*Ibid.*).
188. *Mirat* (Suppl.) p. 149; *Muntakhab-ul-Lubab*, ii, pp. 249-52, 438.
189. The imperial *farmans* of 1666 and 1691 regulated the procedure (*Mirat*, I, 135, 267, 319, 326). However, these regulations and the manner of their implementation prove that the regulations of the Emperor, and not the *shariat* had a definite supremacy in such matter.
190. *Muntakhab-ul-Lubab*, ii, 429. cf. Some scholars have wrongly understood *wakil-i-shar* as Government

appointed lawyers to plead for the common people in the qazi's court.

## Chapter - 4

### Provincial Qazis

The Mughals believed in expansion of the empire for unification under one sovereign power with no scope for any independent ruler. Occasionally submission of regional rulers to the Mughal authority earned them title of superior chieftains or zamindarn-i-peshkashi and thus offered opportunity for some regional freedom in their respective areas. The increasing expansion of the Mughals also necessitated territorial subdivision on the ground of military strategy, administrative convenience and revenue settlement. Abul Fazl writes that after the ten years' revenue settlement 'His Majesty apportioned the empire with twelve divisions, each of which was known as subah (province)'.<sup>1</sup> The number of provinces had increased to eighteen at the accession of Aurangzeb and went up to twenty when Bijapur and Golconda were annexed. The provincial government headed by subedar (also known as *nazim* or *sipah salar*) with three important ministers viz. Diwan, Bakshi and Sadr was based on the model of imperial official structure at the centre.

The *qazi-i-suba* performed his duties in the provincial capital on the pattern of what *qazi-ul-quzzat* was doing at the centre. Occasionally he received guidance and directions from his central counter-part as also the *sadr-i-kul*. The *qazi* was included in the list of four big officers of the province.<sup>2</sup> He had his seat in the capital and was usually the *qazi* of the capital city also. Sometimes he was given charge of one or more *pargana* or towns as happened with the *qazi* of Ah medabad who was, for sometime, concurrently the *qazi* of Sarkhej.<sup>3</sup> The *qazi* sat in the governor's court as and when required for assistance in disposal of cases.<sup>4</sup> The *qazi* received the governor or his deputy on his appointment in the *suba*. The practice, however, undermined the so-called independent authority of the

qazi. The presence of *qazi-i-suba* of Gujarat, was conspicuous among those officers who came to greet Mukhtar Khan on his appointment as governor of Gujarat in 1093/1682.<sup>5</sup>

### **Appointment**

The *qazi-i-suba* was appointed by the emperor, mostly on recommendation of the *sadr-us-sudur* through an imperial *sanad* which was obtained by the appointee from the office of *sadr-i-suba* and not directly.<sup>6</sup> There is no evidence to support the view of some scholars that the provincial *qazi* was appointed by the *qazi-ul-quzzat*.<sup>7</sup> M.B. Ahmad argues that the *qazi-i-suba* was the actual superior of *pargana* and *sarkar qazis* and that the issue of their *sanads* by the *sadr* department was a mere matter of routine.<sup>8</sup> In this context it is suggested that *qazi-i-suba* had no control over lower courts nor was he appointing authority of the *pargana* or *sarkar qazis*. The *qazi-i-suba* could hear appeals but that was the case with every court. A peculiar feature of the Mughal judicial system was that there was no definite hierarchy or grading of courts with specified jurisdiction as we find at present. The *qazis* were appointed directly by the emperor and their appointment was canalized through the office of the *sadr-i-kul* or *sadr-us-sudur* in the sense that the latter was basically responsible for every *madad-i-maash* granted to the *qazis*. Thus theoretically *suba qazi* was independent both of the governor and the *diwan* and yet subordinate only to the imperial *sadr*.

Among the *suba qazis* were appointed Mulla Ahmad Sherwani as the *qazi* of Aurangabad on 1<sup>st</sup> Rajab 4 RY/10.2.1662 under the seal of the *sadar-us-sudur*,<sup>9</sup> Qazi Rahmatullah as *qazi* of Cuttak to be dismissed soon for misconduct and violation of *shariat*.<sup>10</sup> Sayyid Muhd. Ghaus who succeeded him in 1665 received both the titles of *qazi* and *mir' adl* on a stipend of Rs. 4 daily.<sup>11</sup> Qazi Akram was appointed *qazi* of Aurangabad vice Qazi Muhd. Saleh who was transferred to Delhi.<sup>12</sup> Qazi Mulla Haidar was appointed *qazi of*

*suba* Delhi in the vacancy caused by his predecessor who was earlier dismissed by Aurangzeb for corruption.<sup>13</sup> In December 1684 the qazi received the title of Khan and held a rank of 2000 *zat*. Later he was granted a *wazifa* of Rs. 10,000 per year as pension. Sayyid Ali Akbar Allahabadi was *qazi* of *suba* Punjab;<sup>14</sup> Muhd. Yusuf that of Kashmir where he handled shia-sunni riots in 1686 A.D.;<sup>15</sup> Muhd. Sharaf was a prominent *qazi* of *suba* Bengal;<sup>16</sup> and Abul Baraqat was appointed *qazi-i-suba* of newly conquered territory of Bijapur in 1097/September 1686.<sup>17</sup>

The *qazi-i-suba*, like other *qazis*, sometimes combined in himself other offices also. The *qazi* of Ahmedabad was also given charge of the office of the *amin* of the public treasury (*bait-ul-mal*) as well as *daroga* of new converts to Islam.<sup>18</sup> Shaikh Akramuddin combined in himself both the post of *qazi-i-suba* and *sadr-i-suba* of Gujarat for some time.<sup>19</sup> Sayyid Muhd. Ghaus was both a *qazi* and *mir' adl* of Cuttack.<sup>20</sup>

The appointee was usually given a *madad-i-maash* or *wazifa*, the *sanad* of which was issued from *sadr-i-kul's* office. However, in some exceptional cases *suba qazis* held *mansabs* also.<sup>21</sup> Qazi Mulla Haider who received the title of Khan in December 1684 held a rank of 2000 *zat*.<sup>22</sup> He was in good books of the emperor, acted as teacher of prince Muhd. Azam and was finally promoted to the post of the *qazi-ul-quzzat* in 1117/1706. Qazi Nizam-ul-Karsarodi was given a *mansab* of 1500/200 and the title of Mukhlis Khan.<sup>23</sup> Qazi Hamid of Jodhpur had 10 *ahadis* and 20 gunmen at his disposal.<sup>24</sup> The *qazi* of Ahmedabad besides his personal status kept 20 horsemen also.

The post of provincial *qazi* was transferable to some extent,<sup>25</sup> although not many transfers have been reported in our sources as was usual in case of their executive counterparts. Mostly transfers took place on account of promotion. In the period under study *suba qazis* were usually selected for appointment as imperial *qazis*. This

happened with Mulla Haider who before becoming *qazi-ul-quzzat* at the centre in 1706 A.D. was *qazi-i-suba* of Delhi.<sup>26</sup> Muhd. Akram who was imperial *qazi* from 1689 to 1705 A.D. was originally a *qazi* of Aurangabad.<sup>27</sup> Similarly Sayyid Ali Akbar was *qazi* of Lahore before he was called upon to act as imperial *qazi* for some time during the illness of Abdul Wahhab and pending arrival of Shaikh ul Islam.<sup>28</sup> The *qazi* was killed in an encounter with the *kotwal* of Lahore who took action against him under orders from the governor.<sup>29</sup> Khwaja Abdullah of *suba* Gujarat was transferred and appointed *qazi-i-lashkar* of prince Muhd. Azam Shah Bahadur's army.<sup>30</sup> In Khwaja Abdullah's place Qazi Abul Farah was appointed *qazi* of Ahmedabad.<sup>31</sup> In 1121/1710 the latter was transferred and in his place Abul Khair was appointed *qazi* of Ahmedabad.<sup>32</sup> Qazi Muhd. Saleh was transferred from Aurangabad to Delhi in 1093/1683.<sup>33</sup> However, there was no regular practice of transferring the *qazis* in view of the fact that most of the provincial *qazis* received revenue-free land in *madad-i-maash* and it was administratively difficult to introduce large-scale transfer of the recipients with subsequent location of their new *madad-i-maash*.

### **Duties : Consultations**

The *qazi-i-suba* was consulted by the governor on various legal and religious questions on his own or on those issues referred to him by the emperor. Aurangzeb, as governor of the Deccan, consulted *qazi-i-suba* and other *ulama* before awarding punishment to Syed Raju and his followers for their alleged heresy about the appearance and disappearance of the promised Mahdi.<sup>34</sup> The Nazim of Gujarat, prince Muhd. Azam Bahadur, on opinion from *qazi-i-suba*, ordered the rebuilding of pulpits of the city mosque and of Idgah at Ahmedabad into three steps in tune with the practice obtaining in the Prophet's time.<sup>35</sup> Since the governor was expected to ensure smooth administration in his province, he used to consult the *suba qazi* on various petitions from the people which included

their grievances also. On such petitions we find suba *qazi's* seal also together with that of the governor. Muhd. Kamal Khan Jalori, *faujdar* of Palampur, sent a petition to Aurangzeb through Qazi Shaikh Nur-ul-Haq, expressing his desire to join the imperial forces against the Marathas.<sup>36</sup> Such petitions usually in the form of mahzars were forwarded to the emperor for suitable action.<sup>37</sup>

The *qazi-i-suba* acted as a consultant to the governor in the latter's court. He attended his court and helped him in deciding cases in accordance with the *shariat*. Following the royal practice, the governor also used to set apart a weekly day for justice. According to Mirat-i-Ahmadi, *qazi-i-suba* had a permanent seat in the governor's court.<sup>38</sup> The provincial *qazi* of Gujarat sat in governor's court on every Wednesday to help him in disposal of cases.<sup>39</sup> Aurangzeb's stay as governor of Gujarat in 1645-46 witnessed the filing of charges of anti-religious activities against the leader of the Bohra community, Syedna Qutb Khan and Syed Raju, the Mahdavi leader.

It was a strange coincidence that when Aurangzeb took over *subedari* of Gujarat province, Syedna Qutb Khan Qutbuddin became the 32<sup>nd</sup> *dai* (leader)<sup>40</sup> of the Ismaili Bohra community of Gujarat. It is suggested that before Aurangzeb joined Gujarat he was already impelled by motives of self-aggrandisement and a desire to achieve glorification by annexation of the two Deccani kingdoms of Bijapur and Golconda which had remained a dream since Akbar. This policy was being vigorously pursued to earn reputation both from the premier nobles and the general public for effective participation in the inevitable struggle for throne which was likely to follow after Shahjahan's death. Apart from being an able military commander, Aurangzeb tried to do something which should look like purification of Islam by eliminating evil practices branded as *bidat* within the Muslim community.<sup>41</sup> He had experimented this during his first governorship of Deccan and in his brief governorship of Gujarat he

was repeating this policy. But in this kind of religious glorification through populist tactics Aurangzeb over-depended on the *ulama* whose motives were always clear. The latter did not like to lose their grip over the community and expected to maintain their own privileged position by following the path of narrow-mindedness.

It is argued that Aurangzeb's appointment in Gujarat spelt the commencement of a fresh wave of persecution for the Bohra Community<sup>42</sup> and the main actor for their religious interference was Abdul Qawi.<sup>43</sup> Ismaili Bohras were Shias and a heterodox sect. This fact attracted the attention of Abdul Qawi when he arrived in Gujrat alongwith Aurangzeb. He convinced the prince that the Bohras were heretics (*rewfid*) and their blood could be shed. Aurangzeb believed him and issued orders to imprison the *dai*, Syedna Qutbuddin who was then leading the Bohra community. The Bohra books which had been kept secret were examined. However, charges of deviation from religion could not be established against the Bohra leader but, finally, perhaps through manipulations, the *dai*, was charged with heresy. The qazi had no other alternative then to put his seal on the mahzar declaring the *dai* guilty and forwarded it to the governor (Aurangzeb) who passed orders for execution on August 10, 1646.

Shaikh Akramuddin, *qazi-i-suba*, sent a report that Bohra cloth merchants of Ismaili community from whom a surety bond (*muchalka*) was taken earlier for good behavior did not desist from their 'irreligious' practices.<sup>44</sup> Consequently a secret royal order was sent to the diwan for their arrest in consultation with the qazi.<sup>45</sup> It was also ordered that teachers should be appointed by the *Sadr* for illiterate men and children of Bohra community to enable them to learn the basic tenets of sunnism.<sup>46</sup> Again action against the Bohras was renewed after Aurangzeb became the emperor. Reform in Islamic practices brought Bohra question within its purview as this is supported by the contemporary accounts.<sup>47</sup> country to common belief that the action of the Mughals was a sincere attempt at



reforming the Bohras, the fact remains that the Bohras were a rich merchant community with the *dai* having unchallenged religious authority over them. The latter could cause a sense of jealousy among officials and orthodox ulama would raise a bogey for action against the *dai* and Bohra community. Also, there was a factionalism within the community over the question of succession of the *dai*. The Mughal officers exploited the situation by siding with one faction or the other to suit their convenience, sometimes, in connivance with some orthodox theologians. It is relevant to add that the Bohras were arrested even by Dara Shukoh's deputy and then by Murad. While some of them secured their release by bribing the offices and after spending a great deal of money, one *dai* died as a result of severe pain in stomach.<sup>48</sup> One can reasonably suspect the presence of avarice and intrigue behind these manoeuvres of rival groupism working within the community. If ignorance or erring from true path is agreed, why the *sunni ulama*, mostly theologians who were always zealous to protect their privileges as spokesmen of true Islam, could not find anything wrong or objectionable in the secret books of the Bohras. The fact was that there were conflicting class interests which had possibly acquired religious overtones.

Iftikar Khan, governor of Ajmer used to hold court and heard cases in consultation with the *qazi*.<sup>49</sup> A daily report from Ranthambore states that the governor held the court for one *pahr* and 3 *ghadis*. Qazi (Arbab shariat) and other men were also present. People filed complaints and the *qazi* left the office in the afternoon.<sup>50</sup> Due to preoccupations the governor was not in a position to decide all the cases himself. While he decided some of the cases, he made over the rest of the *qazi* for investigation and trial. Civil and religious disputes were mostly left to the *qazi* for decision. The *qazi* assisted the governor on points of law. Sometimes besides the *suba qazi*, other *qazis* were also present.<sup>51</sup> In 1671 A.D. Aurangzeb issued an order to Muhd. Hashim, *diwan* of Gujarat, to ensure that the *qazis* observed five days a week with

Friday as a holiday and Wednesday to be spent in governor's court.<sup>52</sup> According to a daily report from Ajmer, three persons filed a complaint before the governor that a murder had taken place. The governor ordered an enquiry and handed over the case to the *qazi*.<sup>53</sup> Similarly a *kotwal* of Hugli was ordered to be stoned to death by the governor, in consultation with the *qazi*, for forcibly taking away a young girl of a Mughal merchant.<sup>54</sup> There are various instances of cases decided in the *qazi's* court on a reference from the governor in the reports sent from the provinces to the imperial court.

### **Qazi's Own Court**

Leaving Friday which was a holiday and Wednesday when the *qazi* sat in the governor's court, the provincial *qazi* attended his own court for the other five days. He began his work in the morning about an hour after sunrise till midday and then returned his house at the time of *zuhr* (afternoon) prayer. It was obligatory for the *qazi* to announce his hours of sitting in the court to the public and was expected to adhere to time schedule.<sup>55</sup> The daily proceedings of the court were recorded by the *waqianigars* and reports sent to the emperor who referred them to the *qazi-ul-quzzat*. Sometimes *qazi-i-suba* sent reports received from *pargana qazis* to the *qazi-ul-quzzat*. In the *suba qazi's* court we find mention of *daroga-i-adalat*, *mir 'adl* and *amin*.<sup>56</sup> The duties of these functionaries have been discussed elsewhere.

The provincial *qazi* decided in his court all civil and criminal cases which came up before him. He also took up those cases transferred to him by the governor.<sup>57</sup> In this respect he appeared to obey the orders of the governor.<sup>58</sup> The *suba qazi* disposed of appeals referred to him by the governor,<sup>59</sup> or which came directly to him in his court. However *suba qazi* had probably no authority to transfer cases from one court to another or ask for review of the cases.<sup>60</sup> Such a prerogative appeared to lay either with the emperor or the governor. However, the *qazi* could award punishment in a manner he

though fit, especially in cases of canon law where his authority was unquestionably acknowledged. In the event of interference in his functioning he could appeal to the emperor or *sadr-i-kul* in the name of the *shariat* usually through a *mahzar* signed by the eminent people of his area. The *sadr-i-kul* and *qazi-ul-quzzat* were usually favourably inclined to protect his jurisdiction. At the same time the governor being the executive head of the province could override the *qazi's* authority by refusing to confirm death penalty awarded by the latter. A death sentence awarded by the *qazi* of Agra could not materialise because the governor refused to confirm it.<sup>61</sup>

We have on record several cases decided by the *suba qazi* in his own court. In the court of Saadat Khan, *qazi-i-suba* at Jaunpur, a case was decided in 1680 in which it was alleged that one Suleiman Beg killed Bishnath when the latter was sleeping in the thrashing floor. The parties were summoned but the complainants were absent. There was no one to prosecute the case. The *qazi* gave the accused benefit of doubt and discharged the case.<sup>62</sup> As already stated the *qazi* of Agra sentenced a man to death for abusing the court.<sup>63</sup> However, the punishment could not be implemented because of governor's reluctance to confirm it.<sup>64</sup> A Portuguese friar who was converted to Islam was executed under the orders of the *suba qazi* for apostasy.<sup>65</sup> Muhd. Yusuf, *qazi* of Srinagar, sentenced Abdus Shakur, his two sons and one son-in-law to death under canonical law for their act of abusing the first three caliphs. This happened in 1686 A.D.<sup>66</sup> The *qazi* of Allahabad *suba* penalised a Christian in 1113 A.H./1702 A.D. for decrying the Prophet.<sup>67</sup> Such examples can be multiplied.

### **Supervisory Duties**

Like *qazi-ul-quzzat* at the centre, the *qazi-i-suba* was expected to visit prisons.<sup>68</sup> According to *Mirat-i-Ahmadi* the newly appointed *qazi* must also enquire into the state of confined prisoners and reinvestigate their case, if necessary.<sup>69</sup> The prisons of this

period known under different nomenclature as *bandi-khanas*, *qaid*, *mahbus* or *zindan* were placed under the control of the *kotwal*. *Qazi's adalat* and *kotwal's chabutra* too had separate jail rooms known as *bandikhana* or *zindan* where prisoners were kept for some time under the orders of these officers. Princes at times were confined in forts where they rotted their time in chains. The prisoners were released on furnishing surety (*zamini*) in person or by signing a bond of specific amount.<sup>70</sup> We read of an order issued at the request of the governor of Gujarat that Muslim prisoners kept in *kotwali chabutra* should be given one *ser* of wheat flour, two sheets of cloth and some money from the treasury.<sup>71</sup> Old forts were utilized as prisons for long-term offenders, prisoners of war and political opponents. They were mostly under the supervision of the governor or the *faujdar*. Prisoners in the fort of Shivner were allotted 4 Tankas for food expenses daily from the treasury as per report dt. 12 Jamadi II 1072/1662 from the Deccan.<sup>72</sup>

On the recommendation of *qazi-ul-quzzat* Muhd. Akram it was ordered that prisoners of *kotwali chabutra* and forts be provided with a suitable cap, shirt (*qaba*) and trousers in winter and summer from *bait-ul-mal* with a certificate from provincial *qazi*.<sup>73</sup> Abul Hasan Qutb Shah, the defeated Sultan of Golconda, was given as allowance of 10 tankas per day in the fort prison of Daulatabad.<sup>74</sup> The emperor, however, used to be in touch with political prisoners through the governor and the *faujdar*. It appears that some of the fort prisons were beyond the jurisdiction of the *suba qazi* unless the latter received instructions from the higher authorities to make a visit to these prisons. The cases of Murad Baksh and Sulaiman Shukoh who were kept in Gwalior for prison are examples in point.

The *qazi-i-suba* appears to have neglected the duty of visiting prisons probably because of the size of the province and bad means of communication. However, some progress seems to have been made in the betterment of the lot of the prisoners who were under

trial, through a royal *farman* issued in 16 RY of Aurangzeb.<sup>75</sup> It was stated that “the accused sent under the signature of the *qazi* for imprisonment were to be sent to the *kotwal’s chabutra* where the lock-up (*bandikhana*) was situated. The *kotwal* was enjoined to produce the accused in the *qazi’s* court on the day prescribed by the latter.<sup>76</sup> If no day was prescribed, the accused should be sent daily so that his case might be expedited.<sup>77</sup> Another clause of the imperial order said that the cases of prisoners were to be taken up at least once in a month so that those who were innocent should be released.<sup>78</sup> Despite these regulations convicts were detained for unspecified time and consideration of money or influence (*wasila*) could only work for their release.

By an imperial order issued in 1108/1696 *qazis* of the suba were entrusted with the custody of government treasury (*bait-ul-mal*).<sup>79</sup> In particular cases the custody of the revenue of a mahal was also entrusted to a *qazi*. In the wake of the new order Abdul Farah Khan, *qazi* of Ahmedabad, was asked to look after the treasury of the mahal of Ahmedabad. The *wazifa (inam)* to Shaikh Muhd. Isa Ghausi was to be paid through Qazi Abdul Farah, *qazi-i-suba* vide order issued to the *diwan-i-suba*.<sup>80</sup> In a separate order seal of *qazi-ul-quzzat* or of *qazi-i-suba* was necessary to allow money from the government treasury to be spent on the new converts. Such an arrangement already existed at Ahmedabad when we read various clauses relating to imposition or collection of *jizya*.<sup>81</sup> It was also stated therein that with the permission and under the seal of *qazi-ul-quzzat* Shaikh ul Islam new converts were to be given cash allowance through the office of the provincial *qazi*.<sup>82</sup> The provincial *qazi* of Gujarat was also directed to distribute *qaba* (clothes) and blankets priced at Rs. 1.50 and 50 P. respectively free of charge to the *faqirs* and other baggars of the city of Ahmedabad every winter.<sup>83</sup> The *diwanis* of the empire were asked to allow expenses on the funeral of heirless deceased from the *bait-ul-mal* with a certificate from the *qazi*.<sup>84</sup> These regulations tend the scholars to

believe that *qazi-i-suba* became the supervisor of treasury of the province and that he could contend on an equal footing with the *diwan* and the *sadr*. M.B. Ahmad concludes that even payments of *madad-i-maash* sanctioned by the *sadr-us-sudur* required the qazi's concurrence with a view to reducing the authority and influence hitherto enjoyed by the *sadr-us-sudur*.<sup>85</sup>

As we know under the Mughals the central treasury was looked after under the overall charge of the *diwan-i-kul*. In like manner provincial treasuries were held by the provincial *diwans* and *diwan-i-buyutat* who worked under instructions from the central counterpart.<sup>86</sup> The *qazi* does not come in picture at all, more especially, when through various written decrees and through actual practice he was excluded from interfering in any from in financial or revenue matters.<sup>87</sup> The *qazi* could be consulted for religious expenditure but he could not take charge of government treasury which received money from various sources and spent on various purposes other than religious. The jurisdiction of *qazi-i-suba* as *amin* of *bait-ul-mal* appeared symbolic<sup>88</sup> and was confined in the limited sense of religious expenditure alone to be incurred in an impartial way.<sup>89</sup> In no way did it decrease either the power of *diwan-i-kul* or *diwan-i-suba* or prerogatives of the *sadr-us-sudur* in sanctioning land grants or *wazifa* as *madad-i-maash*.

The *qazi-i-suba* was also assigned the duty of reporting misconduct of a local *qazi* to the *qazi-ul-quzzat*.<sup>90</sup> This was the usual method by which a provincial department kept in touch with its central counterpart. Such reports were scrutinized and action taken. Sometimes these reports were verified from the reports sent by *Waqianigars*. Some scholars have argued that since judicial department was under the *qazi* of the province with his court at the capital city, the latter, therefore, recommended names for appointment of *qazis* at the *pargana* level. The view needs modification because most of the names were recommended by the

*sadr-i-suba* and as a matter of fact could be recommended by any officer to the emperor directly or through the *sadr-i-kul*. The *sadr-i-suba* sometimes acted that an impression has been formed about *qazi-i-suba*'s authority in this regard. The clubbing of the offices does not mean that the two offices were amalgamated at the *suba* level.<sup>91</sup>

### **Miscellaneous Duties**

These were basically of any *qazi* at the local level and have been discussed in detail in the chapter on Local Qazi.<sup>92</sup> In the capital city he led the Friday and Id prayers. In the Id procession his place was immediately after the governor.<sup>93</sup>

### **Suba Qazi's Relations with the Governor**

As stated earlier *qazi-i-suba* assisted the governor in settling various disputes brought before the latter. The governor and officers in charge of small units were also required to render all assistance of the *qazi*.<sup>94</sup> Thus a close coordination was sought in the two separate but closely linked offices. In spite of mutual cooperation between the two, however, difference of opinion was bound to be there on the mode of punishment for certain categories of criminal offences. The *qazi* insisted on the *shariat* while the governor's approach was based on practical realities. The latter could ignore the strict interpretation of the *shariat* in the interest of efficiency. M.B. Ahmad states that in the prevailing system judicial powers of the *suba qazi* were coextensive with those of the governor.<sup>95</sup> However, a close scrutiny of relationship between the two reveals that the governor was vested with more judicial powers. He was virtually the head of judicial administration also because it was he who transferred undecided cases of disputes and appeals to the *suba qazi* for disposal. The *qazi-ul-quzzat* and other authorities at the imperial court usually referred the cases to the governor who sent

them the *qazi* which the latter was obliged to investigate and report.<sup>96</sup>

Bernier point out that *suba qazis* were not sufficiently strengthened by the executive. However, Bernier's statement is equally misleading when he writes that governor was absolute lord 'in the stricter sense of the word'.<sup>97</sup> In cases of canon law, *qazi's* jurisdiction was invariable acknowledged. A domineering governor could be jealous of attitude if the latter exerted. Interference by the *qazis* in the administration was often resented by the nobles.<sup>98</sup> In this context an interesting case has been cited in *Maasir-i-Alamgiri*, *Muntakhab-ul-Lubab*, and corroborated in *Maasir-ul-Umara*.<sup>99</sup> Sayid Ali Akbar Allahabadi, *qazi-i-suba* of Lahore, was not on good terms with the governor, Qaqamudddin Khan. The *qazi* was reported to be insolent and did not bend before anyone. He contended on equal terms with the governor. The latter was also proud of his Persian lineage. In this atmosphere of jealousy and hatred between the two an incident occurred in 20-21 RY of Aurangzeb when it was alleged that the *qazi* had deliberately tried to cover the faults of one Sayyid Fazil reported as notorious by the *kotwal*. The *kotwal*, Nizamuddin, alias Mirza Beg, arrested Sayyid Fazil and tried to arrest the *qazi* also who was alleged to be an accomplice, at the behest of the governor.<sup>100</sup> In the physical chase and fray that ensued the war *qazi* slain. The matter was reported to the emperor who transferred both the governor and the *kotwal*. As a result the governor was degraded while the *kotwal* was handed over to the *qazi's* heirs for *qisas* in accordance with the *shariat*. On other occasions relations could become strained on the question of handling religious issues. In a case relating to sunni-shia riots in 1680 A.D. at the Hassanabad quarter at Srinagar the *qazi* was alleged to have incited the sunni mob against the shais. The governor Ibrahim Khan protected the shias but had to surrender in the wake of mob fury and allowed the *qazi* to try them in accordance with the law.<sup>101</sup> Qazi Muhd. Yasuf put the shia Abdus Shakur and others to death under the canonical



sentence. The punishment, however, led to mob violence by the other section in which the *mufti* of the place, Mohd. Tahir, supported the governor.<sup>102</sup> Finding things going out of control, the governor as a last resort, arrested the religious leader Baqa Baba, the *qazi*, the *waqianvis*, *bakshi-i-suba* and some leading men of the capital.<sup>103</sup> Although such a strong action cowed down the people into submission yet the governor had to lose his job probably for delay in sending the accused to the *qazi* and siding with the shias. Mamuri describes a conflict between Mir Shansuddin Bhakhtiyar Khan, governor at Burhanpur and Muhd. Saleh, *qazi* of that place. The *qazi* behaved disgracefully and oppressively but the governor, from fear of the emperor, had to play a second fiddle.<sup>104</sup> Once the governor of Ajmer was compelled to complain against the misbehavior of a *qazi*.<sup>105</sup> Sometimes strained relations between the two reached such a stage that imperial orders had to be issued to dismiss both of them from office.<sup>106</sup> Despite emperor's outward respect for the judges, Mahabat Khan was once ordered to imprison Qazi Abdul Aziz for his impudence.<sup>107</sup> These incidents do not mean that there was always a deadlock. The governor had a upper hand for obvious reasons. The quarrels were mostly individualistic and did not change the pattern of *qazi's* functioning. Usually both the governor and the *qazi* sat together on a specified day for disposal of case and both of them affixed their seals on such documents as were to be forwarded to the imperial court.

## References

1. *Ain-i-Akbari*, II (tr. Garrett & Sarkar), p. 129.
2. *Mirat-i-Ahmadi*, i, 302, 314.
3. *Mirat*, (Supplement), p. 174.
4. *Waqiat-i-Ajmer*, i, 13, 17.
5. *Mirat-i-Ahmadi*, i, 303. We are not aware whether *suba qazi* Administered any oath of office to the governor.

6. *Selected Documents of Aurangzeb's Reign*, AR 941, pp. 30-2. Mulla Ahmad Sherwani was appointed *qazi* of Aurangabad under the seal of *sadr-us-sudur* on 10.2.1662.
7. *Mughal Administration*, Sarkar (1952), p. 96; *Aurangzeb and His Times*, Faruqi, p. 428; also 1 H. Qureshi, *op. cit.*, p. 183.
8. M.B. Ahmad, *op. cit.*, p. 152.
9. *Selected Documents of Aurangzeb's Reign*, AR 941, pp. 30-2.
10. *Ruqqat-i-Hasan*, p. 125 quoted in *Studies in Aurangzeb's Reign*, (1919), Sarkar, p. 225.
11. *Ibid.*
12. *Muntakhab-ul-Lubab*, ii, 564-5.
13. *Maasir-i-Alamgiri*, pp. 513-4.
14. *Muntakhab-ul-Lubab*, ii, 257.
15. Sarkar, *History of Aurangzeb*, v, 422.
16. *Tarikh-i-Bengalah*, of Balmullah, f. 67b.
17. *Maasir-i-Alamgiri*, p. 282.
18. *Mirat*, (Suppl.) p. 174.
19. At the provincial level, judicial work was sometimes entrusted to *sadr-i-suba* and in this capacity he acted as *suba qazi*. The *suba qazi* was also styled as *mir' adl*. It appears that such an arrangement was purely ad hoc as under Aurangzeb was find different persons as *suba sadr* and *suba qazi*. It also explains that these two offices were not amalgamated.
20. *Ruqqat-i-Hasarn*, quoted Sarkar, *Studies*, p. 225; 'One to investgate whom they call a Qazi. The other the Mir Adl to carry out his finding.' *Ani-i-Akbari*, ii, 42-43. However, here *qazi* and *Mir Adl* seem to be synonymous.
21. Qazi Khushal, *qazi-i-suba*, of Delhi held a *mansab* of 500 *zat* during Shahjahan's reign, *Amal-i-Salih*, iii, 114; also I, 507.
22. *Maasir-i-Alamgiri*, p. 251.
23. *Alamgirnama*, i, 48, 53.
24. *Waqiat-i-Ajmer*, i, 177.
25. *Maasir-i-Alamgiri*, p. 240.
26. *Ibid.*

27. *Muntakhab-ul-Lubab*, ii, 563-4; *Maasir-i-Alamgiri*, p. 240.
28. *Maasir-ul-Umara*, i, 235-41.
29. *Muntakhab-ul-Lubab*, ii, 256-8.
30. *Mirat-i-Ahmadi*, i, 310.
31. *Ibid.*
32. *Ibid.*, p. 383.
33. *Maasir-i-Alamgiri*, p. 240.
34. *Mirat-i-Ahmadi*, i, 220. Ali Muhd. Khan terms the execution as murder and adds that Syed Raju became Raju Shaheed, cf. Muslim history is full of Mahdis whose movements were taken as revolt against the established authority.
35. *Mirat-i-Ahmadi*, i, 355.
36. At a slightly later period we find the petition of the Hindus of Ahmedabad bearing seals of the governor and *qazi-i-suba*, submitted to Farukh Siyar, consequent upon outbreak of violence, *Muntakhab-ul-Lubab*, ii, 756-7.
37. *Mirat-i-Ahmadi*, i, 373-4.
38. *Ibid*, p. 276.
39. *Ibid*, pp. 245-6.
40. In the Ismaili Bohra social world the *dai*, in the absence of Imam who is concealed, becomes the highest functionary. He was empowered to resolve internal disputes, teach the community and name his successor in accordance with divine inspiration. While the unquestioned authority could obviously provoke action from the sunni orthodox class, the question of succession could lead to power struggle within community.
41. *Mirat (Suppliment)*, p. 357.
42. *Ibid.*, pp. 357-58.
43. *Ibid.*, pp. 320-21.
44. *Mirat (supplement)*, pp. 62-63.
45. *Ibid.*, pp. 357.
46. *Ibid.*, pp. 357-58.
47. *Maasir-i-Alamgiri*, p. 1-4.

48. *Mausam-i-bahar* of Shaikh Muhd. Qiwabhai as cited by A.A. Engineer in "The Origin of Bohras in India", Islamic Perspective, vol. iii, Jan. 1986, pp. 1-50.
49. *Waqiat-i-Ajmer*, i, 13, 17, 53, 192.
50. *Waqiat-i-Ajmer*, i, 12-3; also *Selected Waqiat of the Deccan*, dt. 16 Zilqada 1072/1662, p. 95; Report from Fatehabad Dharur quoted in JPHS (1956), vol. IV, M.B. Ahmad, "Mughal Emperors were whole time Public Servants; p. 195.
51. *Waqiat-i-Ajmer*, i, 13.
52. *Mirat-i-Ahmadi*, i, 275.
53. *Waqiat-i-Ajmer*, i, 22-4.
54. *Tawaikh-i-Bangalah*, f. 68b.
55. *Infra*.
56. *Mirat* (Suppl.), p. 159.
57. *Waqiat-i-Ajmer*, i, 22-4.
58. *Ibid.*, pp. 24-5.
59. *Ibid.*, p. 22.
60. M.B. Ahmad, *op. cit.*, p. 180.
61. Manucci, iii, 264.
62. M.B. Ahmad, *op. cit.*, p. 259 (case based on author's collections).
63. Mannucci, iii, 264.
64. *Ibid.*, Also ii, 160-1.
65. *Maasir-i-Alamgiri*, p. 442; Mannucci, iv, 113-4.
66. Azami 131a-b cited by sarkar, *History of Aurangzeb*, v, 421-2.
67. Manucci, iv, 113-4; *Maasir-i-Alamgiri*, p. 442.
68. *Mirat-i-Ahmadi*, i, 278-83. The *qazi* was like the present district magistrate, the regular official visitor; *Hidaya* (tr. Hamilton), p. 336.
69. *Mirat-i-Ahmadi*, i, 282-3.
70. JPHS, M.B. Ahmad, "Mughal emperors were whole time Public Servants" (1956), p. 195; Sarkar; *Studies*, p. 225.
71. *Mirat-i-Ahmadi*, i, 305.
72. *Selected Waqiat of the Deccan*, of Aurangabad City, p. 47-8/

73. *Mirat-i-Ahmadi*, i, 344; A prisoner in Ranthambore for was sanctioned a daily allowance of half a rupee (*Maasir-i-Alamgiri*, p. 95).
74. Manucci, iii, 221.
75. *Mirat-i-Ahmadi*, i, 282-3.
76. *Ibid.*
77. *Ibid.*
78. *Ibid.*, infra.
79. *Ibid.*, p. 338.
80. *Ibid.*, p. 334.
81. *Ibid.*, pp. 296-8. It is interesting to note that the *sadrs* were not associated in any form with the imposition of *jizya* on non-Muslims.
82. *Ibid.*, pp. 297-8.
83. *Ibid.*, p. 338.
84. *Ibid.*, p. 330.
85. M.B. Ahmad, *op. cit.*, p. 153.
86. *Riyaz-us-Salatin*, (tr. Ghulam Hussain Salim), pp. 248-9; *Khulasat-us-Siyah*, f. 16b.
87. *Waqiat-i-Ajmer*, ii, Rabi II 22 RY, pp. 207-8. *Mirat-i-Ahmadi*, i, 268-72 (Aurangzeb's *farman* to Muhd. Hashim, *diwan* of Gujarat), *Mughal Farmans* (ed. K.P. Srivastava), vol. I, Doc. XXXV.
88. In the period of classical *qazi-ul-quzzat* was closely associated with the *bait-ul-mal* when he used to inspect the records of the mint and affixed his seal upon it. It is difficult to say whether Aurangzeb was inspired by such ideals.
89. After 1680 we find some *qazis* holding concurrently the post of *amin of jizya*. The *qazi* was also authorize to issue certificates of payment made in this behalf. Therefore, *amini* of *bait-ul-mal* has perhaps no special significance.
90. *Mirat-i-Ahmadi*, i, 309.
91. P. Saran, *op. cit.*, p. 344.
92. Chapter IV.

93. *History of Gujarat*, Commissariat, ii, 378.
94. *Alamgirnama*, pp. 1075-6.
95. M.B. Ahmad, *op. cit.*, p. 250.
96. *Selected Waqiat of the Deccan*, dt. 1072/1662, p. 95; numerous references in *Waqiat-i-Ajmer*.
97. Bernier, *Travels*, pp. 235-6.
98. *Muntakhab-ul-Lubab*, ii, 215-7.
99. *Ibid.*, pp. 256-8; *Maasir-i-Alamgiri*, p. 88; *Maasir-ul-Umara*, iii, 109-15.
100. *Muntakhab-ul-Lubab*, ii, 256-8.
101. *History of Aurangzeb*, Sarkar, v, 422-3.
102. *Ibid.*
103. *Ibid.*
104. Mamuri A.T., 414 as quoted in *Aurangzeb in Muntakhab-ul-Lubab*, Anees Jehan Syed, p. 248.
105. *Waqiat-i-Ajmer*, i, 190.
106. *Muntakhab-ul-Lubab*, ii, 256-8.
107. *Riyaz-us-Salatin*, (tr. Ghulam Husain Salim), p. 183.

## Chapter - 5

### Administrative Functions of Qazi at the Local Level

With the organization of administration in provinces and their subdivisions during the reign of Akbar<sup>1</sup> the *qazis* were appointed regularly at the local level.<sup>2</sup> The *qazi* in a *pargana* was, undoubtedly, an important person doing multifarious jobs in addition to deciding disputes. He acted as a judge, a registrar, a reporter, a religious leader, a teacher<sup>3</sup> and sometimes, a *mutawalli* of a mosque or a tomb. He was a registrar in as much as his seal necessary on various types of documents. He kept a record to civil transactions of the people of his area. The *qazi* was a reporter to the extent that several petitions from the individuals or groups of people were sent to the higher authorities through him usually in the form of a *mahzar*.<sup>4</sup> He was also asked by the higher authorities to investigate and report on certain happenings in the area of his jurisdiction. The local *qazi's* functions were so vast that they touched everything : from sordid to the prominent. In fact, impact of Mughal administration was felt at the local level much through the institution of the *qazi*. His position at the *pargana* appears to be more effective in view of the fact that his two executive counterparts i.e. the *kotwal* and the *faujdar* wherever available, had not much to interfere in his functioning. While the *kotwal* was confirmed to towns, having considerable population, doing police duties,<sup>5</sup> the *faujdar* was concerned more with maintenance of law and order and enforcement of imperial decrees in the area.<sup>6</sup> The *faujdar* was also responsible for smooth collection of land revenue.<sup>7</sup> This is the reason why sometimes the post of *karori* or *amin* was also clubbed with him.<sup>8</sup>

However, in the course of maintaining law and order, the *faujdaar* took up certain criminal and even religious disputes of the area in the interest of public expediency. At the same time he was expected to consult the *qazi*.<sup>9</sup> A contemporary writer of an official manual, Munshi Malikzada states that the *faujdar* was required to decide cases in accordance with the *shariat* and in consultation with the *qazi*, *mufti* and *mir* 'adl.<sup>10</sup> Aurangze's *farman* issued in 7 RY 1074/1664 to Sardar Khan, the newly appointed *faujdar* of Junagadh, clearly emphasized this arrangement.<sup>11</sup> Similarly, in relation to the local *qazi*, the duty of the *kotwal* was to apprehend the culprits and bring them before the *qazi* for trial.<sup>12</sup> Thus in the given arrangement the judicial independence of the local *qazi* was likely to be jeopardized while in his other duties as a registrar for attestation, registration and disposal of civil transactions the *qazi* happened to be the sole authority in the area of his jurisdiction.

Qazi-parganas was posted in every town and sometimes in a village with a Muslim population large enough to be classified as *qasba*.<sup>13</sup> Sometimes *qazis* were also appointed in the territories of Hindu Rajas where there was sufficiently large population of Muslims viz. in the states of Nagor, Jodhpur, Jaisalmer, etc.<sup>14</sup> The appointment of the *qazi* was also made in fort areas having Muslim population.<sup>15</sup> Ordinarily, villages had no *qazi* and people could carry their suits or matters on which *qazi's* seal was necessary to the *qazi* of the neighbouring *qasba* in whose jurisdiction they lay.<sup>16</sup> Normally, most of the rural folk had their disputes, civil, religious or even criminal, settled or decided through the selected village assemblies popularly known as Nyaya Panchayats or Jati Panchayats.<sup>17</sup> However, in due course of time, village people too felt the necessity of approaching the local *qazi* or *qazi* of the neighbouring area if there was no *qazi* in that village to ensure safety of records and to feel secure in agreements with other parties. Any party could go to a *qazi* for attestation of documents, imprinting of *qazi's* seal on copies of the document, registration of



sale-deed or lease-deed, forwarding of a complaint or a representation certified by eminent and respectable people of the area, under *qazi*'s seal, for a proper record of documents or to seek justice. Since caste system placed an iron clamp on majority of population and even the Muslims were divided into numerous groups based on regional, ethnic and *baradari* feelings, the *panchnama*<sup>18</sup> continued to be a valid tradition throughout. Most of the village folk primarily Hindus, avoided going to the *qazi* for settlement of disputes. References of villagers going to *qazi-pargana* or *qazi-i-suba* against *panchnama* are perhaps rare and exceptional. Neither are there references to a direct clash between the *qazi* and the cast or *nyaya panchyat*.<sup>19</sup> Rather there seemed to be coordination and equilibrium between the two. It is interesting to note that in spite of inherent contradictions between the zamindars and the Mughal empire, the Mughal administration had to depend upon the former which included intermediary zamindars as *muqaddam* or *chowdhary* (who was the head of the village assembly also). The Mughal Government supported and sometimes bestowed *khilat* (robe of honour) and on the zamindars *nankar* grant in recognition of their loyalty and services which primarily included the maintenance of rural peace in the village. Whenever a non-Muslim, for security reasons, chose to go to the *qazi* on matters of sale or transfer or mortgage (*girvinama*) of his property, he was expected to accept the terms which conformed to the legal practice of those times.<sup>20</sup> According to *Fatawa-i-Alamgiri* "when one of the two parties to a transaction is a *zimmi* (non-Muslim) nothing is lawful between them that is not lawful between the two Muslims".<sup>21</sup> Presumably shariat was applied to the Hindus also in matters of contract.<sup>22</sup> The point has been elaborated in Qazi's relations with the village community.

### **Appointment**

The local qazi was appointed by the emperor usually on the recommendation of the *sadr-us-sudur*.<sup>23</sup> Sometimes recommendations of the governor and other influential officers were also taken into account.<sup>24</sup> The *sanad* of his appointment was issued by the *sadr* in accordance with the royal orders.<sup>25</sup> The procedure for issue of appointment letter was the same as in case of other religious and quasi-religious officers. At a slightly later stage the authority of appointing subordinate *qazis* directly was delegated by the emperor to the *sadr-us-sudur*.<sup>26</sup> In lieu of their service *pargana qazis* were given either revenue-free land grant or *wazifa* or sometimes both as *mada-i-maash* (*yaumia naqdi wa arazi mashrut khidmat*).<sup>27</sup> However, there was no hard and fast rule and everything was arranged according to local requirements. Mostly the area of land grants to local *qazis* ranged between 150 and 400 bighas, preferably from villagers in the same *pargana*. Sometimes a whole village (*dar-o-bast*) or more than one village were also assigned.<sup>28</sup> Each appointee was to obtain the *sanad* of appointment and *mada-i-maash* from the office of the provincial *sadr*.

Among the few referene of appointment and *madad-i-maash* we find one Abdul Hakeen Alvi, son of Qazi Abdul RAhim, who was appointed *qazi* of *pargana* Haveli Hajipur in the *suba* of Bihar in accordance with the imperial *Farman* issued in 6 RY/1663 A.D.<sup>29</sup> He was conferred the post of *qazi* along with all rights in accordance with the *shariat*. He was also given a grant of 250 bighas of revenue-free land from the same *pargana* as *madad-i-maash* in lieu of his services as a *qazi*.<sup>30</sup> Incidentally the same grant was later renewed to the heirs of the *qazi* by as *parwana* dt. 21<sup>st</sup> Jamadi-us-Sani of 2 RY of Ahmad Shah (28 May 1794) under the seal of Safi Khan Sadr.<sup>31</sup> Sayyid Mohd. Inayatullah was the *qazi* of Sialkot during the period of Shahjahan and Aurangzeb.<sup>32</sup> Qqai Hasan followed by his son Qazi Masud were appointed *qazi* of *pargana* Batala through the *sadr-us-sudur* in accordance with the imperial *faman*.<sup>33</sup> The appointment was later confirmed by the *sadr*

in a separate *sanad*. Both the *qazis* were given a grant between 200 and 400 bighas in a village in *pargana* Batala. Qazi Masud was later followed by Qazi Muhd. Arjumand.<sup>34</sup> There is a long list of *pargana qazis* (*khadima sharif*) of *pargana* Jais of which one Qazi Mohd. Rashid was appointed *pargana qazi* in 1083 A.H./1661 A.D. during the reign of Aurangzeb through a *parwana*.<sup>35</sup> By a *sanad* dt. 17 Rajab 2 Ry of Aurangzeb 29 March 1659 issued under the seal of *sadr* Rizvi Khan Bukhri, Qazi Shaikh Qutbuddin who was appointed *qazi* of *pargana* Majhowa, *sarkar* Champaran, *suba* Bihar was conferred revenue-free grant of two villages of Salimpur and Gorshahr of Tappa Jaffrabad (alias Madhaul) in the same *pargana*.<sup>36</sup> Similarly Qazi Bayzid was conferred the post of *qazi* of *pargana* Dinara and was granted 300 bighas of revenue-free land in villages Pali Narihar, etc. in the same *pargana* as *madad-i-maash* through a *parwana* issued on 15 Shaban 2 RY of Aurangzeb (23 April 1659).<sup>37</sup> One Muhd. Anwar, son of Abdul Latif, in his seal of 1102 A.H. (33 RY of Aurangzeb) writes himself as *khadim-i-shariat*.<sup>38</sup> The seal indicates his position as a *qazi*. Qazi Muhd. Shafi was appointed by Aurangzeb as *qazi* of *pargana* Merta in the *faujdari* of Jodhpur.<sup>39</sup> Since the *sanad* of his *madad-i-maash* did not reach he was temporarily given a daily allowance (*yaumia*) of Re. 1 by the governor till such time the *qazi* was in a position to receive a regular grant.<sup>40</sup> Sometimes a *qazi* was appointed for more than one *pargana*. Qazi Abdul Latif served as *qazi* of three *pargana* viz. Malpur, Tudah and concurrently.<sup>41</sup> The order of appointment instructed that the people of Malpur and Tudah should be informed of said Qazi's appointment for their *parganas* also. Qazi Badruddin who was granted 60 bighas of revenue-free land was a *qazi* of old *qila* of *qasba* Surajpur in *pargana* Majhowa.<sup>42</sup> Shaikh Abdullah Faiz, son of Shaikh Abdul Subhan who was appointed *qazi* of Mangalpur *pargana* in *sarkar* Saharanpur of *suba* Shahjahanbad (Delhi) was favoured with a suitable *madad-i-maash*.<sup>43</sup> Qazi Shaikh Karimullah who was appointed *qazi* of *pargana* Fatehpur, *sarkar*

Kara in *suba* Kashmir in 39 RY of Aurangzeb was favoured with a grant of 100 bighas of barren but cultivable land.<sup>44</sup>

It is observed from these illustration that *pargana qazis* were not *mansabdars* of any rank. They do not appear to be economically so well off as their executive counterparts viz. the *kotwal* and the *faujdar* who were *mansabdars* and usually members of Mughal nobility. Like all *madad-i-maash* assignees, the emperor had the prerogative to reduce or increase their grant usually in consultation with the *sadr*. The confirmation required at the accession of each new ruler and the issue of public orders on the appointment of each new *qazi* show the non-hereditary character of *qazi's* post, at least during the period of Aurangzeb. However, sometimes the emperor, in consultation with the *sadr-us-sudur*, might continue or bestow afresh revenue-free land grant or cash stipend as *madad-i-maash* to the heirs of the *qazi* out of respect or courtesy for the deceased.<sup>45</sup> However, at a later stage a *qazi* could claim his position by sending petition to the *sadr* or the emperor.<sup>46</sup> The *qazi* could be removed any time by the emperor himself or on a report from *sadr-i-kul*.<sup>47</sup>

The post of the local *qazi* was sometimes clubbed with other posts viz. of *muhtasib*, *khatib*, *mutawalli*, etc. The custom of combining the posts was very much prevalent among the Mughals not only in religious and quasi-religious offices but in other executive-cum-military posts also.<sup>48</sup> As per reports from the Deccan Qazi Shihabuddin Mohd. was appointed *qazi* of two *parganas* of Sewli and Tamasli and was given the revenue of whole village (*darobast*) of Burhanpur from the same *pargana* in lieu of his services as a *qazi*, a *muhtasib* and a *khatib* of the area.<sup>49</sup> Similarly Qazi Baruddin acted as a *qazi* and a *mutawalli* of the mosque inside the fort town of *qasba* Surajpur in *pargana* Majhowa, *suba* Bihar.<sup>50</sup>

The *qazi* was assisted by a *naib* or an assistant who used to affix the *qazi's* seal in the latter's absence or preoccupation. We find this practice on some Allahabad documents.

## Duties

While issuing appointment letter and granting a suitable *mada-i-maash*, the duties which the *qazi* was expected to perform were also specified. The following duties were specified in the *sanad* of appointment of Qazi Shaikh Abdullah, *qazi* of Mangalpur *pargana* (*suba* Shahjahanabad) : he was (a) to judge and decide disputes in accordance with the *shariat*, (b) to dispose of cases of claims, inheritance (*qismat wa tarakat*); (c) to write decrees and perform other legal duties concerning people (*kitabāt wa sajalat wa tahrir wa taghrib*); (d) to lead Friday prayers and (e) to conduct investigations.<sup>51</sup> In a similar appointment of Qazi Shihabuddin of *pargana* Sewli and of Tamarli who was made *muhtasib* and *khatib* also, the following duties were enumerated : that he was (a) to follow the canon law and to decide cases according to the *shariat* and (b) to deal with whatever came under his jurisdiction. The people of the area were directed to refer all their petitions to the *qazi* and were also exhorted to consider none else as his equal in this jurisdiction.<sup>52</sup>

From these duties it is clear that the prerogative of the *qazi* in legal matters was always underlined. Within his specified jurisdiction he was the only officer administering *shariat* and deciding disputes accordingly. Secondly, in his area he was made accessible to all the people who were to get in touch with him for all their problems. Thirdly, the broad guidelines mentioned in the appointment letter implied that the *qazi* was required to perform many more duties than mere dispensation of justice in his area. This is amply supported by the extra-judicial practice prevailing about his jurisdiction in Aurangzeb's period. For the sake of convenience *qazi's* functions in the local context have been divided into two broad heads : (a) ministerial or administrative and (b) judicial or quasi-religious.

## Administrative Duties

(a) *Attestations* :

The local *qazi* affixed his seal for attestation of original documents or for their registration with his office as a measure of security and record. In the latter case the *qazi* acted more or less like a modern registrar for registration of sale and transfer deeds and other documents of various types under his seal. At many places in original documents we find *qazi's* seal along with those of higher officers.<sup>53</sup> It was imperative for the *qazi* to certify records with utmost care as is clear from a reference in which the *qazi* was directed to supervise carefully all decrees, sale deeds, mortgage bonds and other legal documents.<sup>54</sup> As a part of the duties the *qazi* was expected to keep his records and papers properly for handing them over to his successor.<sup>55</sup> In an appointment letter issued to Shaikh Karimullah *qazi-ship* for *pargana* of Fatehpur, *sarkar* Kara in *suba* Kashmir in 1106/1695 it was clearly stated that the *qazi* was entrusted, among other things, with the duty of affixing seals (*muharana*).<sup>56</sup> We have on record several types of documents attested under the seal of the *qazi* during Aurangzeb's period. The practice became quite popular in the times of later Mughals.<sup>57</sup>

Copies of original *farmans*, *sanads*, *paranas* and *nishans* were mostly attested by the *qazi* to ensure the authenticity and credibility of the document. Even the original *farmans* and *sanads* had *qazi's* seal affixed sometimes with a date much later than the date of the original documents.<sup>58</sup> The seal of the *qazi* bore the title and name of the *qazi* along with the year. It was affixed at the beginning or on the top of the documents. *Qazi's* attestation was done usually in these words : *naql mutabiq as last*,<sup>59</sup> *mutabiq ba asal*,<sup>60</sup> *naqal*,<sup>61</sup> *muqabala namuda shud*,<sup>62</sup> *asal muyana karda muhr namuda shud*.<sup>63</sup> In some of the documents relating to Shahajahan's period we find *qazi's* attestation on the copy of the original at the close of the document.<sup>64</sup>

It is also observed from our documents that *qazi's* seal did not necessarily correspond to the exact year in which it was imprinted on the document. Probably, a seal prepared in a particular year or in the year of appointment of the officer was continued for several years and did not necessarily tally either with the actual year of the imprint or the exact year of the writing of the document. There are several instances of this types.<sup>65</sup> A *farman* of Aurangzeb granting 100 bighas of *madad-i-maash* land to *musammam* Kamal and others in *pargana* Soorwan Palri, *sarkar* Saharanpur, *suba* Shahjahanabad was written in 28 RY 109/1684<sup>66</sup> while in the endorsement (*zimn*) of the document Niyaz Ali writing himself as Maurid-i-Shah Alamgir gives in his seal the year 16 RY 1083/1672.<sup>67</sup> In several documents of Bilgram Collection the year of the seal of the *qazi* is different from that of the seal of other witnesses.<sup>68</sup> In another document from Sambhal relating to a copy of original sale deed of 15 RY of Muhd. Shah written in 1173 A.H. was attested under the seal of *khadim shar* Sayyid Murad Qazi with the year 1158 A.H. while another seal affixed on the same copy bears the year 1163 A.H.<sup>69</sup> Although seals do not communicate the exact year of the document yet they definitely provide us a clue to the approximate period of time of the document. However, some of the officers were very careful and kept their seals upto date.<sup>70</sup>

Various types of documents ranging from an imperial *farman* down to a common agreement were attested under the seal of the *qazi*. A few illustrations of our period will show the nature of documents required for attestation by the *qazi*. A memorandum (*yaddasht*) dt. 13 Ramzan 1047/1638 from the Deccan refers to a copy of an earlier imperial *farman* with *qazi's* seal affixed thereon (*naql farman alishan ba muhr qazi me numayad ki...*) that the troops stationed at various outposts should have their horses branded at Daulatabad and the branding certificate under the seal of the governor should be forwarded to the imperial court.<sup>71</sup> Even imperial documents relating to a treaty were attested under the

signature and seal of the qazi. A *parwana* of the grant of *sardeshmukhi* to Chhatrapati Sahu with regard to six *subas* of the Deccan under an agreement (*kaul*) bore the seal of Qazi Mohd. Shafi.<sup>72</sup> Copies of *sanads*, *parwanas* and *nishans* relating to appointment orders and grants of *madad-i-maash* were brought before the *qazi* for attestation. A *nishan* of Prince Mohd. Muazzam to Safi Khan regarding the appointment of Fida Beg to the post of *qiledari* of Trimbak in place of Laftullah who was considered unfit due to paralysis, was attested by a *qazi*.<sup>73</sup> A copy of *parwana* for *madad-i-maash* in *pargana* Daryabad and *serai* Shah Alam in *suba* Avadh was attested by Qazi Akram in the year 1142 A.H. (*mutabaq ba asl*).<sup>74</sup> A *nishan* of Dara Shukoh in 30 RY of Shahjahan dt. 1066/1656 conferring a grant of 30 bighas of fallow land by way of *mada-i-maash* to Sayyid Ghiasudding in *pargana* Kara, *suba* Allhabad, was attested under the seal of Qazi Mohd. Murad.<sup>75</sup> A copy of Aurangzeb's *farman* of 15 Rabi I 34 RY/1690 A.D. defining succession to the *madad-i-maash* grants was attested by Qazi Sayyid Bakhshish Ali at a later date. The seal was fixed on the top of the document.<sup>76</sup>

Sometimes *qazi* attested the final settlement of *madad-i-maash* papers such as *chaknama* which was drawn up separately in accordance with the *sanad* of *madad-i-maash*.<sup>77</sup> *Qazi* could also be directed to prepare the copies of the original documents relating to *madad-i-maash* which the grantee was expected to produce before the *sadr*.<sup>78</sup> Documents conferring *nankar* were also attested by the *qazi*. A copy of *parwana* dt. 14 Muharram 1070/1660 from Nawab Diler Khan granting *mauza* of Diler Nagar alias Konwali in *pargana* Sandila, *sarkar* Lucknow, *suba* Avadh as *nankar* to a *qanungo* was attested under the seal of the *qazi* of Sandila.<sup>79</sup> A *parwana* of 1089 A.H. granting Rs. 5 as *nankar* from *fasl kharif* 1086 A.H. to Sayyid Muhd. Faiz, son of Sayyid Salar was attested under the seal of *khadim shah-i-sharif* Faiz Muhd.<sup>80</sup> Another *pargana* for *nankar* of *mauza* Paiwandi, Tappa Karala Mamula, *pargana* Bilgram to Sayyid



Salar Chowdhury dt. 11 Jamadi-ul-Awwal 1061 A.H. was attested under the seal of Qazi Amjad Hafiz with the year of the seal as 1092 A.H.<sup>81</sup> A copy of *parwana* for resumption of a particular *nankar* was also attested by one Qazi Muhd. Ramzan.<sup>82</sup>

(b) *Agreements* :

In accordance with the imperial regulations it was imperative for the officers to get the original agreements or copies of agreement bonds known as *muchalka* or *tomassuk az karar* or *tamassuk hazir zamini* certified under the seal of the *qazi*. The agreement so attested were mostly of the following types :

- (a) Personal appearance of a particular individual soldier or *mansabdar* before the *bakshi*. In accordance with *parwana talab zamini* it was obligatory for the *mansabdar* to sign an agreement (*tamassuk*) or send a bond (*muchalka*) duly attested under the seal of a *qazi*.<sup>83</sup> According to bond the *mansabdar* took upon himself the responsibility of producing a particular trooper or another *mansabdar* or relevant documents on a specified day before the authorities concerned. These agreements were kept in Bakshi's office as record.<sup>84</sup> Manucci too indirectly refers to this practice when he says "all soldiers high and low; generals and captains are forced to give surety, and without it they cannot obtain employment."<sup>85</sup> There could be some difficulty in finding our sureties<sup>86</sup> and therefore it was perhaps considered better to approach the *qazi* who was easily available. Achit Rai, the agent (*wakil*) of Ghaziuddin Khan Firoz Jang executed a bond before the *qazi* promising that he would produce himself or ensure the personal appearance of Manaji attached to the army of Khan Feroz Jang. The attested bond was submitted in the office of *bakshi-ul-mulki* Suba Deccan. The concluding lines of the bond usually gave a legal touch to the document.<sup>87</sup> A newswriter's report from the Deccan states that one Ziauddin, *kotwal*, was

recommended for reinstatement by the *bakshi-ul-mulki* on receipt of an affidavit attested under the seal of Qazi Syed Muhd.<sup>88</sup> The *shiqdar* and *thanedar* of pargana Warigarhi assured the authorities under the seal of the *qazi* that he would produce the absconding person or else he himself would be responsible.<sup>89</sup> A security, if reliable, offered for presence of a particular person in the court was accepted by the *qazi* under his seal.<sup>90</sup>

(b) Surely bonds (*muchalka zamini*) by the individuals were also attested by the *qazi*. The *muqaddams* used to furnish such bonds under the seal of the *qazi* to the *amil* or the *amin* for repayment of first instalment of advanced loan (*taqavi*).<sup>91</sup> The *muqaddams* of Tappa Kacha Amla, *pargana* Bilgram, *sarkar* Lucknow stood surety for payment of *taqavi* loan advanced to the cultivators (*raiya*) two years back. The surety was witnessed by one Sayyid Abdul Hadi, and attested under the seal of the *qazi*.<sup>92</sup> A copy of *iqrarnama* (agreement) dt. 9 Ramzan 1076/1666 for revenue payment of a *mauza* in *pargana* Bilgram entered into by the *zamindar* of Hitwara, etc. was attested by Qazi Ahmadulla under his seal which bears the year 1102 A.H. on it.<sup>93</sup> A copy of agreement (*tamassuk az karar*) originally drawn up on 9 Rajab 1088/1677 between the *muqaddams* was attested under the seal of the *qazi*.<sup>94</sup> A similar agreement for reclamation of waste land originally written on 5 Shawwal 1057 A.H. was also attested by the *qazi*.<sup>95</sup> In the absence of a *sanad* from *sadr's* office, the *madad-i-maash* grantees signed a *muchalks* (bond) usually attested by a *qazi* for production of the documents at a later date.<sup>96</sup>

(c) Agreement or bond for prevention of crimes in future, for repentance of a particular offence or for production of any document to proper authorities was also sometimes executed

under the seal of a *qazi*. One Ziaudding who was dismissed from service (*az-mansab bataraf shudahand*) for frequent indulgence in wine-drinking repented before the *qazi* for his misconduct. The undertaking given by him for good conduct was attested by the *qazi* and was submitted before the *bakshi* for reinstatement.<sup>97</sup> However, the emperor declined to take him back in service.<sup>98</sup> On a *mahzar* from the residents of Ahmedabad that their fruit trees had been forcibly felled by the elephant and camel drivers, an imperial directive was issued that after finding out the facts, the offenders should be severely reprimanded and a bond taken from them that they would not commit such an offence in future.<sup>99</sup> The release of prisoners was also secured by signing a bond for specific amount attested by the *qazi*.<sup>100</sup>

- (d) Copies of original agreements already drawn between the parties for sale or transfer of property (*bainama tamliknama*) or gifting out something (*hibanama*) were also attested under the seal of the *qazi*. A copy of the sale deed which was originally written under the seal of *shariat panah* Qazi Muhd. Hafiz in 1083/1672 was certified and attested by Qazi Sayyid Ali.<sup>101</sup> A copy of agreement of the sale of a property located at *mauza* Muhammadpur *qasba urf* Khwajipur drawn up on 15 Zilhij 1147 A.H. was attested by the *qazi* of Bilgram.<sup>102</sup> An original agreement dt. 5 Zilqada 1135 A.H. bearing the seal of horses for a specified amount, the copy of which was inspected and attested by the *qazi* on 22 Zilqada 1270 A.H. (i.e., an attestation of the original document which had become 135 years old).<sup>103</sup> There are many such documents of agreements attested by the *qazi* and preserved in Allahabad Collections.<sup>104</sup> Copies of voluntary distribution of property (*qismatnama*) were also attested by the *qazi*.<sup>105</sup> An agreement (*iqrarnama*) made by Mir Abdul Ghafur zamindar for regular monthly payment of Re. 1 as charity from the income of his

house with extensive gardens was duly attested under the seal of Qazi Abdul Razaaq.<sup>106</sup>

### **Attestation of Grievances**

The *qazi* had the unique power of attesting the representations from people under his seal and signature. Such representations usually signed by a number of witnesses of prominent people of the area and attested by the *qazi* was known as *mahzarnama*.<sup>107</sup> The *mahzar* was a public recognition of a complaint or a grievance of a particular individual or individuals and was a definite source of information for the authorities. This has been discussed separately.

#### *(c) Registration of Documents*

Since there was no separate department to look after sale, transfer, gift or mortgage of immovable properties, the local *qazi* was assigned the duty of registering these documents as a measure of security and record. The documents mostly executed before the *qazi* consisted of sale deeds (*bainama*), transfer deeds (*tamliknama*), mortgage deed (*grivinama*), gift deed (*hibanama*), lease deed (*pattanama*), etc. The seal of the *qazi* appears on many such documents which offers a fascinating study. In order to examine various aspects covered in these documents a separate study has been made in chapter on Qazi in relation to village community.

*Heirless Properties* : The *qazi* looked after the property of the orphans by appointing trustees (*ausiya*). Sometimes he himself was entrusted with the duty of administering property of deceased persons without heirs.<sup>108</sup> Jahangir's 4<sup>th</sup> Regulation states, 'If anyone died in the dominion his property should be left for the heirs, but if he died without a heir, separate guardians should be appointed to guard the property so that it may be spent in lawful expenditure, such as, the building of mosques, *sarais*, repairs in villages, digging of tanks, wells, etc.'<sup>109</sup> The *qazi* protected the properties of the absentees, orphans, minors and idiots.<sup>110</sup> At other time he controlled

their guardians and appointed administrators for such properties.<sup>111</sup> In matters concerning possession of land, however, where a breach of peace was apprehended the authority was conferred both on the *qazi* and his executive counterparts viz. *faujdar*, *kotwal* or *shiqdar*.<sup>112</sup>

Where there was no separate *mutawalli*, the *sadr* or the *qazi* of the area usually acted as such and supervised the administration of state-aided *khanqahs*, *dargahs*, tombs or mosques. Qazi Da'im was entrusted with the duties of a *mutawalli* and received *madad-i-maash* in *qasba haveli* Khairabad.<sup>113</sup> Qazi Badruddin was appointed *mutawalli* of a mosque inside old *qila* of *qasba* Surajpur, *pargana* Majhowa and received 60 bighas of land as *madad-i-maash* for his personal subsistence and to meet expenses on repairs and lighting in mosque vide *parwana* dt. 18 Rabi-ul-Awwal 1088/24.4.1677.<sup>114</sup> Aurangzeb once sent orders to governor of each province to show favours to the *mutawalli* as a standing practice.<sup>115</sup>

*Registration of Marriages* : It was a common practice among the Muslims to ensure the presence of *qazi* or his agent at the occasion of marriage. The marriages were always registered with the *qazi* of the area.<sup>116</sup> Describing a marriage at Agra Palsaert observed the arrival of *qazi's* clerk and a *maulana* who initiated the legal part of ceremony which consisted of registration in the *qazi's* book showing that such and such person was acknowledged as husband and such and such woman as wife.<sup>117</sup> The marriage of one Nawab Taj Khan, grandson of Nawab Bahadur Khan of Shahjahanpur was celebrated in the presence of the *qazi* and signed of witnesses. The *mehr* was fixed at 1 crore 25 lakh rupees of which one-third was paid right on the occasion.<sup>118</sup> Saqi Mustaid Khan describes several marriages of the royal family which were conducted in the presence of the *qazi*.

The *qazi* was entitled to a fee from the parties for every marriage that he performed within his jurisdiction as per custom

prevailing (*rusoom*).<sup>119</sup> The fee was much higher in the case of royal marriages. It appears that the *qazi* tried to exploit the festive occasion by demanding more. Shah Nawaz Khan referring to Aurangzeb's period laments at the ignorance of the *qazis* about the *shariat* and adds that while they were least bothered about observance of Islamic tenets fit for the occasion, they were always more concerned with their fee for *nikahana* and *mehrana*.<sup>120</sup>

## **Divorce**

There are not many reference to suggest that the divorce was common among the Muslims in this period. However, the *qazi* could grant divorce and keep a record of it if both the parties mutually agreed to do so. According to a solitary reference in a report dt. 16 Zilqada 1072/23.6.1662 from Parenda fort in the Deccan a husband and wife were granted divorce through a mutual agreement by the *qazi* for incompatibility of temperament (*muafaqat namishud*).<sup>121</sup>

## **Reports of the Qazi**

While proceedings of the *qazi's* court were regularly reported by the *waqianigars* and their agents, the *qazi* himself was authorized to send reports on various matters concerning the *shariat*, judicial enquiries, representations from the people attested under his seal, market rates and other affairs in the area of his jurisdiction. The imperial court could also call for such reports from the *qazi* usually through the governor on receipt of complaints. The nature of these reports reveals that enquiry and investigation had become an integral part of *qazi's* functions. The reports sent by the *qazi* can be classified into four categories viz. (a) when a directive was issued from the imperial court to the governor who in turn sent it to the local *qazi* for investigation and report,<sup>122</sup> (b) when the governor on his own authority demanded a report from the *qazi* about the affairs in the particular area on receipt of a representation or otherwise,<sup>123</sup> (c) reports on grievances of an individual or group

of persons usually in the form of a *mahzar* signed by the *sayyids* and the *shaikhs* of the area and attested under the seal of the *qazi*,<sup>124</sup> and (d) judicial reports.<sup>125</sup> On the basis of these reports prompt action was taken by the concerned officials. Reporting was a powerful weapon with the *qazi* to bring to light the highhandedness of the local executive officials. The *qazi* also sent reports on representations from *madad-i-maash* assignees about encroachment on their lands by the revenue officials. Such reports were usually sent to the provincial *sadr*.<sup>126</sup> While these reports have been discussed in detail at relevant places, it is also stated that the *qazi* sent his own complaints and even exploited the local public opinion in his favour through the seals or signatures of learned persons of the area as witnesses. Such reports mostly against the *faujdars* were known as *majlisnama*. In a report sent to the *sadr-i-suba* the *qazi* leveled certain allegations against the *faujdar*. The *sadr* appointed another *qazi* to investigate the complaint and submit a report to him. The enquiring *qazi* was also asked to visit on the spot and ascertain facts.<sup>127</sup> In 22 RY Qazi Muhammad Akram of *pargana* Merat, *suba* Ajmer complained against Sa'dullah Khan, the *faujdar* who was *amin* and *karori* of the place also, for realization of illegal dues through a *mahzar*.<sup>128</sup> The report when fully examined highlighted two important aspects : that the *qazi* was fully justified to report anything which according to him sounds improper but at the same time he was not authorized to interfere in the traditional pattern of land revenue administration. In 1682 when Sambhaji raided Burhanpur and perpetrated cruelties on the population, the *qazi* of the place sent a *mahzar* reprimanding the incompetence of the governor and other officers.<sup>129</sup> Qazi Abdul Hadi accompanied by the *diwan* submitted a joint report about the demoralized condition of the Mughal soldiers in the wake of the Deccanis' advance in 1119/1708 to Ibrahim Khan, governor of Gurjarat. The report was forwarded to the new emperor through the imperial *qazi*.<sup>130</sup>

There are numerous references to people going to the *qazi* for attestation and certifying the genuineness of their grievances in order to elicit response from the concerned authorities. The *mahzars* had been so common in the seventeenth century the even a servant approached a *qazi* for attestation of his complaint before he could present his case before the *kotwal*.<sup>131</sup> Complaints in the form of *mahzar* from people of rural areas against the highhandedness and oppression of *qanungos*, *muqaddams*, *faujdars* and other officers were mostly certified under the seal of the *qazi* and sometimes reported by the latter.<sup>132</sup> Khafi Khan says that *qazi's* reports were always favourably accepted and the officers concerned were asked to explain their conduct.<sup>133</sup> There is no doubt that these *mahzars* were effective yet they do not undermine the authenticity of grievances reported separately by the *waqianigars* from the provinces to the Mir Bakshi or reports of the *amins*, wherever appointed for enquiry.

### **Certificates**

The *qazi* was entrusted with the additional duty of certifying under his seal, reports on demolition of temples in accordance with an imperial farman issued to the provincial governors.<sup>134</sup> Although the new order appears to be universal throughout the empire,<sup>135</sup> its implementation was neither uniform nor reported specifically in contemporary records.<sup>136</sup> The testimony from the theologians with *qazi's* seal obviously served the purpose of implementation of the order. While there are instances of demolition of temples including jaina temples in the northern India during the early period of Aurangzeb's reign, the process appears to have slowed down, almost to a halt, during the later part, especially after conquest of the Deccan Kingdoms. It is evident that Aurangzeb in the early stage was continuing the practice of demolition reflected in Shahjahan's reign<sup>137</sup> as a part of military operations as also a part of attempt to build up his image as an imperialist to look after Mughal interests.



At times religious institutions were damaged to assert authority. A glaring example is at time of bringing Marwar temporarily into the *khalisa* in 1679 when temples were destroyed in Jodhpur in a bid to announce that the state had passed into imperial hands. It is difficult to agree with Sarkar's view that through destruction of temples Aurangzeb tried to create an Islamic State<sup>138</sup> and Sharma's contention that the temples were destroyed primarily from religious point of view.<sup>139</sup> An argument has also been advanced that some temples were destroyed due to their encouragement of rebellious tendency against the Mughal authority<sup>140</sup> or that in some areas, viz. in the *subas* of Sind and Multan demolition took place because Muslims were attracted towards Hinduism.<sup>141</sup> There may be valid instances of this type but these do not sum up the whole picture of the vast Mughal empire. Our sources state that Aurangzeb himself modified his earlier order on demolition by a new farman dt. 28 Feb., 1669 which said, "Brahmins should not be deprived of their hereditary right of worship and that old temples should not be touched but no new temples should be allowed to be built."<sup>142</sup> Simultaneously we notice the continuing existence of *madad-i-maash* and *inam* grants in favour of Hindu Brahmans, Sanyasis and Yogis as also grants in favour of temples and Hindu maths.<sup>143</sup> Four such grants during 1660-1663 have been located in various bastes pertaining to the *suba* of Bihar.<sup>144</sup> Again when Aurangzeb visited Ellora caves in 27 RY/1683-84, and saw life-size images pertaining to Hindu mythology, he rather admired them as *sana-i-khuda* (workmanship of God) far from ordering destruction.<sup>145</sup>

It appears the Mughal government was not very much interested in encouraging demolition as is usually believed. In all likelihood the officers must have seen the futility of such an action which had a support only from a small section of orthodox theologians. The implementation of the imperial order on demolition would have been irritating because it was tantamount to subordinating the executive officers to the *qazi* and other

theologians. It is stated that both *qazi* and the *muhtasib* who were supposed to be present for greater religious zeal were often bribed. In Gujarat the indigenous method adopted by the people of Surat to save temples was to pay consideration money. This however, led to greater demands from the *qazi* and the *muhtasib* against which banias began to complain.<sup>146</sup>

After the annexation of the Deccan kingdoms most of the Hindu temples remained intact<sup>147</sup> which incidentally proves the hollowness of repeated propaganda against the Hindus as reported in the chronicles. Destruction of temples, although sparingly and at random, was not directly connected with religious attitude alone. Temples at Pandharpur (in Maharashtra) in the last decade of Aurangzeb's reign were destroyed more as manifestation of imperial anger emerging from Mughals' frustration to capture Maratha forts.<sup>148</sup> By and large Hindu religious institutions were spared after 1688 when perhaps Mughal government was more preoccupied with the Maratha problems and the theologians with *jizya* collection.

The *qazi* certified expenses incurred on funeral of travelers, unclaimed corpses and those who died intestate. Such a certificate entitled the withdrawal of money from the *bait-ul-mal*.<sup>149</sup> This position was reiterated by an imperial farman of 1090/1679 wherein it was made obligatory for the *qazi* to be present at the funeral rites of the heirless deceased.<sup>150</sup>

The *jizya* with all its theological invocation and minute details was imposed on the non-Muslims (*zimmi*s) by an imperial farman issued in April 1679 A.D.<sup>151</sup> Saqi Mustaid Khan calls it as one of the rare virtuous measures (*hasanat-i-gharib*) enforced throughout the Mughal empire.<sup>152</sup> Ishwardas Nagar blames the theologians and the ulama for imposition of this tax who had earlier represented to the emperor that 'levying of *jizya* was necessary and compulsory (*wajib*) according to the *shariat*.'<sup>153</sup> However, the historian adds that certain categories of people including

government servants were exempted from it. The author of *Khulasat-us-Siyaq* gives rates of jizya for various categories based on financial condition of the zimmies.<sup>154</sup> Khafi Khan states that the jizya order was issued to reduce the infidels to subjection and distinguish the land obedient to Islam (*matial-Islam*) from the land of infidelity (*dar-ul-harb*) and therefore it was to be enforced in all provinces.<sup>155</sup> It is also stated that long before jizya was imposed, Aurangzeb had ordered the abolition of a number of unauthorized taxes which placed heavy burden on the Hindus.<sup>156</sup> The author of *Mirat-i-Ahmadi* says that alongwith farman relating to jizya on the zimmies, a separate order reiterating the collection of zakat from the Muslims was also issued.<sup>157</sup> Zakat was imposed in the proportion of 1 out of 40 or 2.5% of the total income with due regard to financial condition of the payer. With the imposition of these taxes qazi's functions became enlarged. At times he could be asked to act as amin (custodian) of income derived from these heads. At various places he became incharge of the treasury of jizya (*khidmat tahsil mal jizya*).<sup>158</sup> However, contemporary records refer to separate appointment of amins for jizya and zakat was ordered to be spent for religious purposes including charity.<sup>159</sup> The payers of jizya was given a certificate under the seal of amin or qazi to the effect that he had complied with the obligations and that fresh demand should not be made. Any non-Muslim, except those exempted, found without the certificate was offender in the eyes of the court.<sup>160</sup> This afforded an ample opportunity for the qazis and amins to misappropriate the funds.

The circumstances leading to imposition of jizya as also its collection has been highly debatable issue among modern scholars. Sarkar terms reimposition of jizya as one of the orthodox measures of Aurangzeb in an attempt to establish a truly Islamic state in India which implied the conversion of entire population to Islam.<sup>161</sup> Sharma subscribes to the same view with full blame on the theologians.<sup>162</sup> For Nizami Aurangzeb appears to have accepted the

Naqshbandi influence when he introduced religion into politics impelled by an orthodox religious attitude.<sup>163</sup> However, it has been statistically proved that some of the measures taken by Aurangzeb were not fanatical and that the observations made by different writers are rather exaggerations, especially when there was increased number of Hindu nobles even after the imposition of jizya in 1679 A.D.<sup>164</sup> and continuation of donations to the Hindu establishments. The presence of this evidence adds new dimension to various issues which were hitherto considered as purely religious issues are quite significant and cannot be ignored. While Muhd. Habib rejects the Naqshabandi influence on Aurangzeb,<sup>165</sup> Satish Chandra attributes imposition of jizya to Aurangzeb's political problems in the Deccan and consequent increasing frustration leading to his dependence on the Muslim Section to rally under him, especially after 1676 when he finally decided to abandon Shahjahan's policy and make an all out bid to conquer the Deccan.<sup>166</sup> This is one reason why it took 22 years for the emperor to decide finally on jizya imposition. In a way the measure was politically motivated to isolate the rebellious Marathas and to punish them for plunder of cities and imprisonment of Muslims. The consultations with the theologians was not only a routine matter but a deliberate attempt to pin hopes in the Muslims alongwith the Mughal arms for impending conquest of the Deccan. Recently a scholar concludes that jizya was used in a loose sense in medieval India and often meant any tax other than land revenue (*kharaj*). However, jizya tax imposed by Aurangzeb was not reimposition of what was abolished by Akbar but a fresh tax, basing arguments on the text of the imperial farman on jizya contained in *Mirat-i-Ahmadi*.<sup>167</sup>

It can also be argued that jizya was imposed to cope with the problem of poverty and unemployment of attendants (*khadims*) at the various Sufi dargahs whose number had increased considerably.<sup>168</sup> In the absence of any definite data it is difficult to

say with certainty that dargahs and other religious institutions were facing financial crisis and that *jizya* was imposed solely for augmenting income to provide more donations. Undoubtedly income for *jizya* and *zakat* was an important criteria<sup>169</sup> as it was stipulated that the income derived from these heads was to be spent for religious purposes only. However, the religious framework was so broad as to include even military action against the irreligious. If the argument for more funds for the religious establishments is to be advanced, the nature of grants to the dargahs need examination. We find that all such grants were essentially of *madad-i-maash* character made through the *Sadr* and were strictly subject to *madad-i-maash* regulations in respect of verificiation, renewal and resumption. A distinct feature of such grants was however, the simultaneious existence of the *sajjada nashin* and *mutawalli*.<sup>170</sup> While the *sajjada nashin* looked after the spiritual side, being held in high esteem by the common folk due to his sanctified position the *mutawalli* attended to temporal side i.e., management of dargah affairs including payment of expenditure on speicified items. The latter also disbursed subsistence allowances to individual members attached to the dargah viz. holy persons (*mujawars*), stipend holders (*yaumiadars*) and attendants (*khadim-i-dargah*). Sometimes the *mutawalli* had his own agents in the collection of revenue as some of the dargahs received large grants in the shape of various villages, apart from donations from the visiting dignitaries.<sup>171</sup> Through his reports to the *sadr*, the state was in a position to keep some leverage on the functioning of the dargah. In one such report from Ajmer the *mutawalli* found it difficult to meet the demands of all the *yaumiadars* because their number had increased enormously over the years without any corresponding increase in the revenues allocated for the dargah.<sup>172</sup> An enquiry was ordered into the whole affair. Another report speaks of plundering of th land revenue realized from the waqf villages attached to the dargah by the recalcitrant Rajputs.<sup>173</sup> In another report land given in *madad-i-maash* for the upkeep of a tomb was sold out.<sup>174</sup> Saqi Mustaid Khan states that

expenditure to maintain 600 mosques in Delhi cost the state one lakh of rupees in the 9 R.Y. of Aurangzeb<sup>175</sup> while an amount of 1½ lakhs was spent by Aurangzeb on charities in the month of Ramzan.<sup>176</sup> Similarly number of wazifa holders and other beneficiaries was increasing in religious establishments.

In this context, however, it is interesting to note a reference to Aurangzeb's order of R.Y./1672-73 by which lands and allowances given as *madad-i-maash* to the Hindus were confiscated.<sup>177</sup> It has also been argued that in the wake of this imperial order jogis of Jakhbar lost their *madad-i-maash* temporarily to be restored only under the later Mughals.<sup>178</sup> Undoubtedly, *madad-i-maash* grants both to the Muslims and non-Muslims were theoretically non-hereditary and inalienable at least prior to 1690 A.D. with full prerogative of the government to reduce or even confiscate them without any specific reason.<sup>179</sup> Some grants in the suba of Bengal were resumed as the *sadr* had rejected the sanads obtained in a clandestine way.<sup>180</sup> However, implicit in this particular farman issued in 16 R.Y. was a pointer to a link in the general trend reflecting Aurangzeb's concern on increasing expenditure on a large number of grants which might have necessitated confiscation and secondly, coupled with this was his unfailing desire to grant more for charities. The way out of this paradoxical situation could be to find out avenues for income for religious charities. It is not known which specific grants were resumed as a follow-up of the order of 1673 A.D. Yet, the another hastily adds that on a petition from Maharaja Jaswant Singh *inams* were ordered to be reinstated as before.<sup>182</sup> Some of the grants in favour of the Hindus continued to exist even after the said order. In view of this evidence it appears that the imperial order was too general in nature and was not followed up strictly. However, a logical corollary of this order which had social and economic context was probably to substitute it later by a full scale measure which prompted imposition of jizya in 1679 A.D. the tax was

motivated to increase income for religious charities and at the same time to bring majority of these beneficiaries closer to the emperor who was showing signs of frustration on the Deccan question. The step was therefore, taken after a careful consideration of all the aspects in consultation with the theologians. The text of the jizya ordinance clearly states that income derived from jizya should be deposited in a separate treasury known as *khazana-i-jizya* and the expenditure was to be incurred on religious purposes only. It was with this intention that separate religious functionaries like *qazis* and *amins* of jizya were entrusted with this work. However, in the absence of a sound financial data on the income and expenditure of various dargahs, the present argument is tentative and pointer to further research.

It was not so much the order on jizya, as the consequences of its collection with rigidity, that actually led to further complications. The contemporary sources mention protest of a small section of Delhi populace who had assembled and petitioned to emperor for exemption from jizya but in vain.<sup>183</sup> The letters attributed to Raja Raj Singh of Mewar<sup>184</sup> or Shivaji reprimanding Aurangzeb for imposition of jizya<sup>185</sup> appear to be dubious in nature when tested within the framework of medieval Indian diplomatics. However, jizya from the Hindus was ordered to be realized with full vigour and in a relentless way through a properly constituted machinery. If one goes by dissecting each word of jizya farmna, the mode of collection could be termed harsh by the modern standards. For example caluse IV inter alia says. "The zimmi should come on foot to pay the jizya tax and should remain standing while the collector is sitting. The collector should place his hand over the hand of the zimmi and say : 'O zimmi, pay the jizya.' Proxy was not permitted." Any laxity shown in this regard was to be treated as *bidat* (irreligious).<sup>186</sup> Such a hard attitude led some of the officers and theologians to boast that they had achieved the target of collection, in their areas, especially in commercial towns<sup>187</sup> while

some others found it difficult to collect jizya without resistance.<sup>188</sup> The scramble for more income on this account started at the top when Aurangzeb increased the tribute (peshkash) payable by many of the superior zamindars and autonomous chieftains.<sup>189</sup> For the rich the tax was affordable but a large majority was finding it uncomfortable. The increased economic burden must have been passed on to the cultivators in whose case it was an insult to injury as they were already hard pressed. Aurangzeb once observed, though belatedly, that it was difficult to collect jizya in Hindustan,<sup>190</sup> which indicates the hatred and resistance of the Hindu tax payers. The additional pressure of jizya on the cultivating classes and the artisans in the rural areas was increasingly becoming intolerable. The local population had resorted to indigenous methods ranging from closure of shops to clash with the officers.<sup>191</sup> The qazis acting as amins of jizya and even separate amins of jizya had become bribe takers when it was alleged that 'they collected lakhs.'<sup>192</sup> If Manucci is to be believed amins of jizya kept back  $\frac{1}{2}$  or  $\frac{3}{4}$  of the proceeds for themselves.<sup>193</sup> The increasing corruption of the theologians was quite irksome to the nobility. On various occasions the nobles recommended remission but their petition was turned down by Aurangzeb.<sup>194</sup> Khafi Khan sums up the realistic picture by writing that the income of 52 lakhs per year from jizya was perhaps slightly more than what was spent on the cost of collection.<sup>195</sup> The zeal and hardness shown in collection defeated the very purpose for which jizya was imposed and consequently the step undermined the prestige of the Mughal government. The measure angered the people, divided the nobility, corrupted the theologians and annoyed the Hindu chieftains.

Subsequent to imposition of jizya on non-Muslims, an imperial order of 25 R.Y./1681 authorised the *qazis* to deal in cases or disputes arising from the collection of *zakat* from the Muslims in consultation with the *amins* of *zakat*.<sup>196</sup> Although it was mandatory that *zakat* should be 1 out of 40 subjects to the conditions of the



payer, it is doubtful if this was implemented in a systematic way. The ruler and governors were impressing upon the people the rewards promised in Islam for all those who practiced charity. While passing orders on the grievances of zamindars and *madad-i-maash* holders, Shaista Khan, governor of Bengal (1664-66), remarked : “Mir Sayyid Sadiq, the *sadr* should fully recognize *madad-i-maash* and *wazifa* which these men had been enjoying in *khalisa* land according to reliable sanads. As for revenue-free grants in the jagir land of a noble, if it amounted to 1/40<sup>th</sup> of the total revenue of the jagirdar, he should treat it as zakat on his property and spare it. But if it exceeded 1/40<sup>th</sup> of the jagir, he was at liberty to respect or resume.....”,<sup>197</sup> It is also stated that in the suba of Bengal merchants and travelers were not to be troubled on account of *zakat*.<sup>198</sup>

The qazi, if asked, could also attest the prevailing market rates of various essential commodities by affixing his seal on the price-bulletin. The fixation of prices was usually done by the faujdar or kotwal at a place where emergency necessitated a uniform distribution of basic commodities among troopers or people facing hardship at a reasonable rate. A report from Baglana in the Deccan says that as the garrison of Sultangarh was not paid their salaries for two months, ration was distributed to the troopers from a part of their outstanding salaries at the prices fixed by the faujdar in consultation with the grain merchants of the market and the *qazi* who was readily available.<sup>199</sup> The commodity rates at Aurangpur in Parenda were also fixed and the same was attested under the seal of the *qazi*.<sup>200</sup> Sometimes a separate register for this purpose was also kept.<sup>201</sup>

## References

1. *Ain-i-Akbari* (tr. Jarrett & Sarkar), ii, 129. The *pargana* was the lowest administrative unit.

2. Since it has not been found possible to demarcate strictly between a *qazi* at *sarkar* headquarter and in a *pargana* or in a fort town or in a *qasba* (town), the general term local *qazi* has been used for all these *qazi* except imperial and provincial who have already been discussed in the preceding chapters.
3. *Qazis* were supposed to be the most learned men of the area (*Maasir-i-Alamgiri*, pp. 111, 114). Qazi Aslam's family was famous for coaching royal princes.
4. In the 17<sup>th</sup> century *mahzars* had become very common. Most of them relate to restoration of *madad-i-maash* grants or a request from the grantees for non-interference of revenue officials in their grants; also *Mughal Archives*, ed., Z. Shakeb, p. 326; Bilgram Doc. 7, 17.
5. *Ain-i-Akbari*, (tr. Jarrett & Sarkar), ii, 43-5; *Mirat-i-Ahmadi*, i, 166-7; Manucci, ii, 420-3; cf. P. Saran states the *amil* took over only the suburban police and judicial duties of the *kotwal* in the *pargana* of his jurisdiction. However, municipal duties remained with the *kotwal* (P. Saran, *op. cit.*, p. 287).
6. *Nigarnama-i-Munshi*, pp. 78, 79, 84; *Selected Documents of Aurangzeb's Reign*, p. 41.
7. *Ain-i-Akbari*, Blochmna, I, 197; *Ain-i-Akbari* (tr. Jarrett & Sarkar), ii, 42; *Siyak Nama*, p. 67; *Insha-i-Roshan Kalam*, f. 3a. K.K. Datta refers to a *parwana* of 5<sup>th</sup> Ramzan 46 RY of Aurangzeb (23, 1, 1702) addressed to the *faujdar* of *sarkar* Saran, *suba* Bihar directing him to put a stop of the highhandedness of the one Kanak who harassed the *zamindar* and the ryots of the *pargana* in the collection of land revenue (Basta 329 of Saran Collectorate, p. 38).
8. It was the duty of the *faujdar* to chastise the defiant *zamindars* who resisted the payment of land revenue. The Zortalab areas had increased considerably during Aurangzeb's period. Also. *Riyaz-u-Salatin*, tr. Ghulam Hussain, pp. 279-80.

9. cf. P. Saran's view that *faujdar* did not exercise any magisterial powers needs indification (p. Saran, *op. cit.*, p. 210).
10. *Nigarnama-i-Munshi*, pp. 78-9.
11. *Mirat-i-Ahmadi*, i, 257-8.
12. Akbar's *farman* to officers in 1595 A.D. contained in *Mirat-i-Ahmadi*, i, 166-7; Manucci, ii, 420-1.
13. *Siyaq Nama*, pp. 86-7; *Mirat* (Suppl.), pp. 193, 233, 250; *Mughal Administration*, Sarkar, p. 96; I.H. Quraishi, *Mughal Government*, p. 187.
14. *Waqiat-i-Ajmer*, i, 45.
15. *Selected Documents of Shahjahan's Reign*, pp. 189-90; K.K. Datta, *op. cit.*, p. 31.
16. Sarkar, *Mughal Administration* (1952), pp. 96, 108.
17. Panchayat was as assembly of five (usually of a family or a caste or a village). In Rajasthan and Gujarat in the 12<sup>th</sup> and 13<sup>th</sup> centuries *panchkul* consisting of five families or five headmen has been profusely used. Also see, George Franks, *Panchayats under the Peshwas* (Poona), p. 17. Under Peshwa rule Muslims endeavoured to settle their disputes among themselves with the aid of a *qazi* while the inter-communal disputes were invariably referred to the panchayat (p. 37). Document XIII, of the *Mughals & Jogis of Jakhbar* refers to a *panchayat* of the bazaar of Jakhbar township.
18. cf. The *muqaddam of mauza* Nekkhwahapur *tappa* Korala mamula, *pargana* Bilgram, *sarkar* Lucknow, *suba* Avadh, stated before Diwan Nauroz Khan that in accordance with the decision of the *panchayat (muafaq karar panchayat faisal dada)* he would make payment of the specified amount as land revenue (*kharaj wajbi*) (Bilgram Doc. 21 dt. 20 Shahr Zalgada 1090/1679). Similarly in some sale or transfer deeds it is stated that the assent of eminent people (*buzurgan*) of the place or from the community (*jama' it Musalman*) had been taken (Bilgram Doc. 26).

19. M.B. Ahmad, *op. cit.*, p. 62. cf. *Qazi-i-pargana* took up only those cases of appeal which voluntarily came to him. There is no evidence with us to say with certainty that any such case against the *panch* decision went to the *qazi's* court.
20. Bilgram Doc. 15, 40 dt. 1061 A.H. Seal of Qazi dt. 1092/1881; the Hindus sold land to the Muslims and vice versas (Bilgram Doc. 4, 8, 12, 14).
21. Baillie, *Muhammadian Law of Sale*, London, 1850, p. 160.
22. Proceedings, Punjab History Conference, 1972, J.S. Grewal "the *shariat* and non-Muslims of Batala". P. 154.
23. *Selected Documents of Aurangzeb's Reign*, p. 15; I.O. Ms. 4720 (i) cited by Grewal at p. 7 of Persian Documents in '*In the Bylanes of History*'.
24. *Selected Documents of Shahjahan's Reign*, pp. 189-90; cf. Qazi Kamal was reinstated as *qazi-i-pargana*, Bilgram in 1000/1591 on the recommendation of the jagirdar of the area, IESHR, 1967, Irfan Habib "Agrarian Relations and Economy in a Region of U.P." pp. 229-30.
25. *IHRC*, XXXVI, pt. II (1961), Mohiuddin Momin, "A Soyurghal of Babur", pp. 51-2.
26. *Mirat-i-Ahmadi*, (Suppl.), p. 199,
27. *Mirat-i-Ahmadi*, i, 327; *Mirat* (Suppl.), p. 169; K.K. Datta, *op. cit.*, Basta 370 of Champaran Collectorate dt. 2 RY/1659; M.B. Ahmad, *op. cit.*, for a list of *qazis* of Jais *pargana* during our period.
28. *Selected Documents of Aurangzeb's Reign*, pp. 15-6; K.K. Datta, *op. cit.*, dt. 1071/1661.
29. K.K. Datta, *op. cit.*, pp. 15-6.
30. *Ibid.*
31. This indicates that the grant of *madad-i-maash* was not always conditional upon service. Religious grants could continue in the names of the heirs even after the appointed was no longer in service.
32. *In the Bylanes of History*, Grewal, p. 14.

33. *Ibid.*, p. 7 (based on I.O. Ms. 4720 (64), (39).
34. *Ibid.*
35. M.B. Ahmad, *op. cit.*
36. K.K. Datta, *op. cit.*, Basta 370 of Champaran Collectorate, p. 32.
37. *Ibid.*, p. 73.
38. J.S. Grewal, *op. cit.*, Doc. 1.
39. *Mirat-i-Ahmadi*, i, 327.
40. *Ibid.*
41. *Waqiat-i-Ajmer*, i, 10; *Nigarnama-i-Munshi*, p. 122.
42. K.K. Datta, *op. cit.*, dt. 1088/1677, p. 31.
43. *Nigarnama-i-Munshi*, p. 122.
44. *Siyag Nama*, p. 86, (*zamin-i-uftada laik-i-zira'at kharij jama*).
45. K.K. Datta, *op. cit.*, Bastas, 417-8, p. 94.
46. *Faramin-i-Salatin* No. 98, pp. 143-4.
47. *Supra*, p. 107.
48. Such a practice prevailed in the contemporary independent Sultanates of Bijapur and Golconda, *Faramin-i-Salatin*, Doc. 147 of 1068/1657, pp. 218-9.
49. *Selected Documents of Aurangzeb's Reign*, AR 947 dt. 17 Rajab 1071/8.3.1661, pp. 15-6.
50. K.K. Datta, *op.cit.*, Basta 341 of Champaran Collectorate, p. 31.
51. *Nigarnama-i-Munshi*, p. 122; *Siyag Nama*, p. 86.
52. *Selected Docuements of Aurangzeb's Reign*, AR 947, pp. 15-6.  
cf. The duties assigned to the *qazi* of the sultanate of Bijapur were more or less the same. There a *qazi* was given the assistance of some footmen to enforce his orders (*Faramin-i-Salatin*, Doc. 153).
53. *Mughal Archives*, ed., Z. Shakeb, p. 326; *Selected Documents of Shahjahan's Reign*; *Mughal Farmans*, ed., K.P. Srivastava, Doc. XXXIV dt. 1066/1656.
54. *Fatawa-i-Alamgiri*, Book III; *Hidaya* (Hamilton), p. 399.

55. *Hidaya* (Hamilton), p. 336.
56. *Siyag Nama*, p. 26. The practice was so much uniform in the Mughal Empire that a *qazi* appointed in a far off place like Berar was expected to certify copies of documents with his seal, in addition to other duties, *Proceedings IHRC*, vol. XII, 1929 (ii), Y.K. Deshpande, "Revenue Administration of Berar in the Reign of Aurangzeb", pp. 81-7.
57. Allahabad Documents No. 218, 228.
58. Aurangzeb's *farman* of 15 Rabi I 34 RY/6.12.1690 was attested under the seal of Qazi Sayyid Bakhshish Ali with the year 1217 A.H./1804 A.D. *Mughal Farman*, ed., K.P. Srivastava, Doc. XLII; cf. An Akbari *farman* relating to *mada-i-maash* was attested by Qazi Abdul Hakim in 1196/1785. A Jehangiri *farman* of 1018/1610 was attested by Qazi Usman bin Firoz much later (*Ibid.* Doc. X). cf. After Permanent Settlement by Cornwallis and acquisition of conquered land by the British, the *qazis* affixed their seals on a number of *madad-i-maash* documents belonging to much earlier period to ensure their credibility.
59. Allahabad Doc. 343; Bilgram Doc. 17.
60. Allahabad Doc. 16, 54, 55, 464; Bilgram Doc. 9.
61. Allahabad Doc. 218.
62. *Ibid.*, 317a & b; Bilgram Doc. 3.
63. Bilgram Doc. 32.
64. *Mughal Farman*, ed, K.P. Srivastava, i, Nos. XXVIII, XXIX. The practice was a departure from the established custom of affixing to *qazi's* seal on the top of the document. It is difficult to ascribe any definite reason to this. However, during this period many documents, especially of *madad-i-maash* grants, were forged and on these forged documents some unscrupulous people had claimed grants (*Badshahnama*, ii, 365). The possibility that a new practice was adopted to avoid forgery and to make *qazi's* seal more distance from other seals cannot be ruled out.

65. cf. A *farman* of 14 Zilhij 16 RY/1083 relating to for Husainpur, *sarkar* Baharaich, bears the seal of one Abdul Nabi Murshid Badshah Alamgir with the year 1070 A.H. (Allahabad Doc. 169-!, 170).
66. *Mughal Farmans*, ed., K.P. Srivastava, Doc. XLIII.
67. *Ibid.*
68. Bilgram Documents 36 of 1085/1674, 37 of 1099/1688, 40 of 1088/1677.
69. Sambhal Documents, *Farsia* No. 6, S. No. 54 (AMU).
70. A document of *madad-i-maash* relating to *pargana* Azampur in *sarkar* Sambhal, *suba* Shahjahanabad written in 4 RY of Aurangzeb bears the seal of adr Muhd. Nurullah Husaini with titles and the year as 1071 A.H. (Sambhal Document, *Farsia* No. 6, S. No. 62 (AMU).
71. *Selected Documents of Shahjahan's Reign*, No. 23, p. 68.
72. *Proceedings IHRC*, B.W. Bhat, "Parwana relating to the Sanad of Sardeshmukhi ....", 1950, vol. XXVII (ii), pp. 104-7.
73. *Selected Documents of Aurangzeb's Reign*, AR 23, 28 RY/1685, p. 236.
74. Allahabad Doc. 16.
75. *Selected Documents of Shahjahan's Reign*, No. 73, p. 162; K.P. Srivastava, ed., *Mughal Farmans*, i, Doc. XXXIV.
76. K.P. Srivastava, ed., *Mughal Farmans*, i, Doc. XLII; also Allahabad Doc. 52, 55 for *qazi's* attestation on *madad-i-maash* documents.
77. Bilgram Doc. 22, *Mirat-i-Ahmadi*, i, 257-8.
78. *Mirat-i-Ahmadi*, i, 335. It appears that under Aurangzeb *qazi's* duties in respect of *madad-i-maash* were primarily restricted (a) to attest to copies of *farmans*, *sanads*, *parwanas* and *chaknamas* relating to *madad-i-maash* (b) to certify the representations of old grants or possession thereof and (c) to prepare the copies of the *sanads* for inspection by the *sadr-i-juz*.
79. *Faramin-i-Salatin*, Doc. 44, pp. 62-3.

80. Bilgram Document, 15.
81. *Ibid.*, 49.
82. *Ibid.*, 9.
83. *Nigarnama-i-Munshi*, p. 147; *Siyag Nama*, f. 20; *Ain-i-Akbari* (Blochmann), I, 271.
84. *Nigarnama-i-Munshi* p. 147; *Selected Documents of Shahjahab's Reign*, p. 162. cf. Sometimes some officers were exempted from this formality, *Selected Documents of Aurangzeb's Reign*, AR 781 dt. 11 Jamadi II 33 RY/1690, p. 268.
85. Manucci, ii, 377.
86. Athar Ali, *op. cit.*, p. 60.
87. *Selected Documents of Aurangzeb's Reign*, AR 93 dt. 22 Rabi I 1096/16.2.1685, pp. 156-7.
88. *Ibid.*, dt. 20 Rajab 1081/18.7.1676, 19 RY, p. 106.
89. *Ibid.*, dt. 17 Shaban 1085/18.7.1674, 17 RY, p. 105.
90. Manucci, *Storia*, i, 265; ii, 199.
91. *Hidayat-ul-Qawanin*, as quoted by Abdul Rashid, "The Duties at Function of the Amin", *IHC Proceedings* (1950), pp. 193-6.
92. Bilgram Doc. 25 of 5 Shahr Rajab 1098/1687.
93. *Ibid.*, 55.
94. Allahabad Document, 329.
95. *Ibid.*, 343.
96. *Nigarnama-i-Munshi*, p. 91.
97. *Selected Documents of Aurangzeb's Reign*, dt. 20 Rajab 1087 18.7.1676, p. 106.
98. *Ibid.*
99. *Mirat-i-Ahmadi*, i, 308.
100. Case of Muhd. Quli of village Barqandaz of 17 RY of Aurangzeb quoted in *JPHS* (1956), M.B. Ahmad, "Mughal Emperors were whole Time Public Servants", p. 195; *Selected Documents of Aurangzeb's Reign*, dt. 18 Zilqada 14 RY/1671, pp. 92-3.
101. Bilgram Document No. 32.



102. *Ibid.*, 46.
103. *Ibid.*, 76.
104. Allahabad Doc. 218, 228, 229, 329, 343, 435, 464.
105. *Ibid.*, 441, 446.
106. *Ibid.*, 56 dt. 12 Rajab 1093/1682.
107. Sometimes *amins*, appointed for a specific enquiry used to send their reports on the truthfulness or falsity of the case in the form of *mahzar* (*Nuskha-i-dilkusha*, f. 127b) cf. The custom of *mahzar* became common with the Marathas also. See V.T. Gune, *Judicial System of the Marathas (1600-1818)*.
108. *Insha-i-Harkaran*, chapter VI, p. 178.
109. *Tazuk-i-Jahangiri*, tr. A. Rogers, p. 8.
110. *Insha-i-Harkaran*, chapter VI, p. 178; cf. *kotwal* kept an inventory of such properties (*Ain-i-Akbari*, tr. Jarrett & Sarkar, ii, 44-5)/
111. *Ibid.*
112. M.B. Ahmad, *op. cit.*, p. 200. The author quotes some examples from his personal collection of judgements (*Baqiat-us-Salehat*).
113. A *sanad* dt. 5 Ramzan 1084/1673 vide "Calendar of Khairabad Documents" cited in *Islamic Culture* (1972), p. 89.
114. K.K. Datta, *op. cit.*, p. 31.
115. *Maasir-i-Alamgiri*, p. 336 cf. when Shahajahan made certain *waqfs* in favour of Taj Mahal he himself retained the *Mutawalliship* (*Badshahnama*, Lahori, ii, 330).
116. cf. *Insha-i-Mahru*, ed. Abdur Rashid (Letter 7), p. 18 emphasising that marriage among Muslim folk must take place before the *qazi*.
117. *Remonstrantie* of Pelsaert (tr. Moreland and Geyl), pp. 81-4. cf. Akbar tried to associate two officers for ascertaining the age of the bride and bridegroom in order to discourage early marriage (*Ain-i-Akbari*) (*Ain* 24). These instructions could have been hardly followed in that age. Under Aurangzeb we find the *qazi* continuing to register the marriages without any

reference to the age group. In 1646 Dara wanted to marry his son Sulaiman Shukoh, then only a boy of 9, to Anup Kanwar (Inder Kanwar).

118. *Faramin-i-Salatin*, Document 157, pp. 231-2.
119. One of the duties of the *qazi* was to conduct marriages and charge fee for registration i.e. *mehrana* and *nikahana* (*Siyaq Nama*, pp. 86-7). The payment of the fee was looked upon an auspicious.
120. *Maasir-ul-Umara*, I, 235-41.
121. *Selected Waqai of Deccan*, (of Parenda fort), dt. 16 Zilqada 1072/1662-5 RY, p. 95. Also see *Insha-i-Mahru*, ed. Abdur Rashid, p. 18. Wherein the governor of Multan directs the *dadbeg* and the *qazi* to see that village folk of Multan could marry the divorced women after the latter had observed the period of specified (*iddat*) so that children that are born to them should be considered legitimate.
122. *Waqiat-i-Ajmer*, i, 13, 17, 53, 91-2.
123. *Mirat-i-Ahmadi*, i, 379; *The English Factories in India*, ed. Fawcett, New Series, ii, 422.
124. *Mufid-ul-insha*, ff. 82-6; *Mughal Farmans I* (ed. K.P. Srivastava, Doc. XXXV; *Mughal Archives*, ed. Z. Shakeb, *mahzarnama*, 228, p. 326.
125. *Infra*, p. 250.
126. *Mirat-i-Ahmadi*, i, 257-8; *Mirat (Supplement)* p. 149; Bilgram Documents 7, 17.
127. *Mufid-ul-insha*, ff. 82-6.
128. *Waqiat-i-Ajmer* II Rabi II 22 RY, ff 207-8. Sometimes officers were sent with a directive to prevent a *faujdar* from collecting illegal taxes in his *jagir*, *Selected Waqai of Deccan* dt. 8 Zilhijj 1071/1661, p. 127.
129. *Muntakhab-ul-Lubab*, ii, 270-4.
130. *Mirat-i-Ahmadi*, i, 379.
131. *Selected Documents of Shahjahan's Reign*.

132. *Mughal Farmans* I, ed. K.P. Srivastava, Doc. XXV dt. 1070/1659; pp. 189-90; *Muntakhab-ul-Lubab*, ii, 550.
133. *Muntakhab-ul-Lubab*, ii, 256-8.
134. *Raqqaat-i-Hasan*, 20, tr. Sarkar, *Studies in Aurangzeb's Reign* (1919), p. 227 quoting such an order to the governor of Orissa.
135. Saqi Mustaid Khan mentions destruction of some temples at Varanasi, *Maasir-i-Alamgiri*, p. 88.
136. According to Sharma, the order was not a new law but revival of an earlier interpretation of the Muslim Law which had become obsolete. (*Religious Policy of the Mughals*, p. 129) Demolition of religious buildings was common among medieval rulers, irrespective of any state order issued or not.
137. Shahjahan had ordered destruction of temples in the Rajput state of Orchha in 1635 A.D. Various temples were demolished during Aurangzeb's viceroyalty of Gujarat, including the temple of Somnath, (*Mirat-i-Ahmadi*, i, 259-60). Many were rebuilt after Aurangzebs departure from Gujarat.
138. Sarkar, *History of Aurangzeb*, pp. 268.
139. Sharma, *Religious Policy of the Mughal emperors*, p. 118.
140. S.R. Sharma, *op. cit.*, pp. 189-90; Also Sarkar, *History of Aurangzeb*, iii, chapter 24 (Appendix V); v, 294.
141. *Maasir-i-Alamgiri*, p. 81.
142. *JASB*, Calcutta, 1911, "A Farman of Aurangzeb", pp. 687-90.
143. Basta 2/76 No. 8-19 & 26-31 of Jodhpur Records, Bikaner cited in Satish Chandra "Some Religious Grants of Aurangzeb to maths in the State of Marwar", *Proceedings I.H.C.* (1970), i, 405-07; JPHS, vol. v, Jnan Chandra "Aurangzeb and Hindu Temples", p. 250; Also *JPHS*, vi, pp. 55-65; *Imperial Farmans granted to Tikayatji Maharaj* (ed.) K.M. Jhaveri, Bombay, 1928.
144. K.K. Datta, *op. cit.*, various Bastas, pp. 66, 76, 85.
145. *Maasir-i-Alamgiri*, p. 237; *Kalimat-i-Taiyibat*, Inayatullah Khan Kashmiri, letter No. VI.

146. *Storia do Mogor*, ii, 154.
147. *Nuskha-i-dilkusha*, Bhim Sen, f., 104a, 112b, 142b, Saqi Mustaid Khan refers to destruction of a temple in Bijapur in 42 RY/1698 A.D. (*Maasir-i-Alamgiri*, p. 241).
148. *Nuskha-i-dilkusha*, f. 112b.
149. *Mirat-i-Ahmadi*, i, 293.
150. *Ibid.*
151. *Mirat-i-Ahmadi*, i, 263.
152. *Maasir-i-Alamgiri*, p. 529.
153. *Futuh-i-Alamgiri*, f. 74a.
154. Cited by Irfan Habib in *Agrarian System of Mughal India*, pp. 245-46. The author of *Mirat-i-Ahmadi* refers to these rates as; 12 dirhams from the poor (faqir); 24 dirhams from the middle class and 48 dirhams from the rich. Since dirhams were not minted at the time of imposition, an equal amount was to be realized in the local currency. cf. Muhammadan Theories of Finance, N.P. Agnihides, (1926), pp. 399-406.
155. *Muntakhab-ul-Lubab*, ii, 255.
156. *Ibid.*, ii, 87-89. There are instances to prove that abolition of *abwabs* was not strictly observed.
157. *Mirat-i-Ahmadi*, I, 298-99; for a full discussion on *zakat*, in early Islam, see Muhammadan theories of Finance, N.P. Agnihides, New York, 1926 wherein the writer views that *Sadaqat* or *Zakat* was originally a voluntary contribution but later when Bedouins joined the community it was settled by contract. Under prophet *zakat* probably meant tribute in the form of basic means of subsistence, but after him it signified 'statutory alms' or in common parlance 'poor tax' and was levied annually at about 21/2% of property and not of income.
158. *Waqiat-i-Ajmer*, ii, 508-9; *Muntakhab-ul-Lubab*, ii, 606.
159. *Ahkam-i-Alamgiri*, ed. And tr. Sarkar as Anecdotes, No. 44; *Mirat-i-Ahmadi*, ii, 30-31.
160. *Waqiat-i-Ajmer*, ii, 508-9; *Storia do Mogor*, ii, 415.

161. Jadunath Sarkar, *Studies in Aurangzeb's Reign*, 1989 (Reprint), p. 8; *History of Aurangzeb*, iii, 274.
162. S.R. Sharma, *op. cit.*, p. 192.
163. "Naqshbandi influence on Mughal Rulers and Politics" *Islamic Culture*, January, 1965, pp. 41-52.
164. *Nobility under Aurangzeb*, Athar Ali.
165. *Proceedings of I.H.C. 23<sup>rd</sup> session (Aligarh)* Irfan Habib "The Political Role of Shaikh Ahmad Sirhindi and Shah Waliullah."
166. "Jizya and the State in India during the 17<sup>th</sup> century", *Journal of the Economic and Social History of the Orient*, Vol. XII, 1969 (Netherlands), pp.
167. *Aurangzeb in Muntakhab-ul-Lubab*, A.J. Syed, Bombay, 1977, pp. xxxiii-xxxii.
168. *Waqai-i-Ajmer*, (AMU Ms.). pp. 26, 26, 30, 32.
169. *Faramin-i-Salatin*, Doc. 4, 7, 9.
170. For definition of *mutawalli* see *Encyclopaedia of Islam*, ii, 1008; Joseph Schacht, *Early Doctrine of Waqf* (1953); *Hidaya* (tr. Hamilton), ii, 334. In the period of classical Islam the supervision and administration of religious institutions commonly known as auqaf were in the hands of the *mutawalli*. Also see, P.K. Hitti, *History of the Arabs*, London, 1940; Khuda Baksh, *Orient under the Caliphs*, p. 285. *Insha-i-Mahru*, a work of the time of Firuz Shah Tughluq divided *waqfs* of Multan into two categories.
171. *Waqiat-i-Ajmer*, ii 436-37; *Maasir-i-Alamgiri*, 325-26; *Muntakhab-ul-Lubab*, ii 549. Emperor's visit raised the prestige of the dargah in the eyes of the populace as people had a firm faith in the *barakat* (blessings) of the dargah.

The foreign travellers as well as Factory Records attribute two main reasons for imposition of jizya (a) replenishment of treasury and (b) compelling Hindus to

become Muslims; *Storia do Mogor*, ii 233-4; iii, 288; *English Factors in India*, (ed.) Fawcett (NS), iii, 241.

172. *Waqiat-i-Ajmer*, pp. 24, 26, 30, 32.
173. *Waqiat-i-Ajmer*, 30, 32.
174. *Kalimat-i-Taiyibat*, Inayatullah Khan Kashmiri (ed.) S.M. Azizuddin Husain, Delhi, 1982, Letter No. XXXII, f. 32b.
175. *Maasir-i-Alamgiri*, p. 336; cf. Mosques in other cities received extensive gardens and villages as madad-i-maash, A study of Muslim Inscriptions, Bendrey V.S., pp. 156-57.
176. *Maasir-i-Alamgiri*, pp. 47, 529.
177. *Mirat-i-Ahmadi*, i, 319.
178. *Ibid.*, i, 288.
179. *Mughals and jogis of Jakhbar*, (ed.) Goswamy and Grewal, 1967, p. 33. Jakhbar is located on road between Pathankot and Amritsar.
180. Reduction and confiscation of such grants had already taken place under Akbar and Shahjahan.
181. The practice of resumption of grants was quite common right from Balban onwards. Akbar had to take action against the *sadr* who indulged in corruption while issuing grants.
182. *Mirat-i-Ahmadi*, i, 288.
183. *Muntakhab-ul-Lubab*, ii, 255.
184. *Annals and Antiquities of Rajputana*, James Tod, i, p. 302. Also, Kavi Shaamal Das, Vir Vinod, ii, 462.
185. *Shivaji and his times*, Jadunath Sarkar, Calcutta, 1948. Pp. 306-09.
186. *Maasir-i-Alamgiri*, p. 174; *Kalimat-i-Taiyibat*, Inayatullah Khan Kashmir, Letter No. LIII.
187. *Muntakhab-ul-Lubab*, ii, 377-78. Mir Abdul Karim increased the yield of jizya, from 26000 rupees a year to four times of that amount in three months.

188. *Ahkam-i-Alamgiri*, (Tr.) Anecdotes, Jadunath Sarkar, f. 56. Petitions of the officers for remission of jizya were turned down by the emperor.
189. *Muntakhab-ul-Lubab*, ii, 377-78.
190. *Kalimat-i-Taiyibat*, Inayatullah Khan Kashmiri, Letter No. LXXIX, f. 110a.
191. *Mirat-i-Ahmadi*, i, 340-41; *Muntakhab-ul-Lubab*, ii, 278.
192. *Nuskha-i-dilkusha*, p. The qazis of the Mughal period, with a few honourable exceptions, were notorious for taking bribes (Jadunath Sarkar, History of Aurangzeb, iii, p. 10).
193. *Storia do Mogor* ii, 415; iii, 291.
194. *Ahkam-i-Alamgiri*, (Tr.) Anecdotes, *op. cit.*, 5b.
195. *Muntakhab-ul-Lubab*.
196. *Mirat-i-Ahmadi*, i, 208-99.
197. *Fathiyyah-i-ibriyyah*, ff. 120a-120b cited by Jadunath Sarkar, Studies in Aurangzeb's Reign, Calcutta (Reprint 1989), pp. 115-119.
198. *Ibid.*
199. *Selected Waqai of Deccan*, dt. 24 Rabi I 1072/1661, p. 130.
200. *Ibid.*, dt. 9 Shawwal 1072/1662, pp. 93-94.
201. *Ibid.*

## Chapter - 6

### Qazi in Relation to Village Community

The *qazi* was posted not only in every town but sometimes in a village with a Muslim population large enough to be classified as *qasba*.<sup>1</sup> Sometimes *qazis* were also appointed in the territories of superior chieftains where there was a sufficiently large population of the Muslims.<sup>2</sup> The appointment of the *qazi* was also made in fort areas comprising Muslim population.<sup>3</sup> The local *qazi* was an important person doing multifarious jobs in addition to deciding disputes. He acted not only a judge but a registrar and a reporter. He was a registrar in as much as his seal was necessary on various types of documents. He kept a record of civil transactions of the people of his area. The *qazi* was a reporter to the extent that several petitions from the individuals or groups of people were sent to the higher authorities through his seal usually in the form of a *mahzar*.<sup>4</sup> He was also asked by the higher authorities to investigate and report on certain happenings in the area of his jurisdiction. In the 17<sup>th</sup> century his position was becoming steadily quasi-religious because more and more people had started approaching him for property transactions and civil disputes and his two executive counterparts i.e. the *kotwal* and the *faujdar*, wherever available, were aware of this kind of functioning. However, in the course of maintaining law and order both the *faujdar* and the *kotwal* had a superior position by virtue of the authority they wielded in ensuring the implementation of imperial decrees.<sup>5</sup>

The increase in the number of civil transactions and property disputes in the *qazi's* court in this period was a significant development. It obviously reflects the opportunity offered to the people to utilize *qazi's* office for civil matters. However, this raises some questions which need examination. To what extent did de jure function become de facto or in other words what was attitude of the



villages i.e. of the Hindus in the villages which formed the bulk of the population to the *qazi's* handling of civil disputes and whether in the light of this the *qazi* could decide land revenue disputes? The question becomes all the more important when some of the sources of the period attribute Aurangzeb's dependability on the *qazis*<sup>6</sup> in all matters and indirectly hint at his attempt at incorporating the principles of *shariat* in land revenue matters.<sup>7</sup>

Ordinarily, a majority of villages dominated primarily by the Hindu population had no *qazi* of their own yet the people were free to carry their suits or matters on which the *qazi's* seal was necessary to the *qazi* of the neighbouring *qasba* in whose jurisdiction they lay.<sup>8</sup> Normally the villages had their disputes : civil, religious and even criminal, settled or decided through the selected village assemblies popularly known as *jati* panchayat or *nyaya* panchayats. The caste system played a considerable role in shaping the indigenous institutions of which caste *panchayat* was one. In smaller towns people of the same profession belonging to the same *jati* had their own *jati* panchayats which regulated their matters.<sup>9</sup> The same practice continued in the time of Aurangzeb also. The local *qazi* did not try to interfere in their functioning because the caste panchayats were neither subordinate nor accountable to the *pargana* or local *qazi*. Since the *panchnama*<sup>10</sup> continued to be a valid tradition from times immemorial, most of the village folk were still reluctant to go to the *qazi* for settlement of disputes. There is perhaps no reference to villagers going to the local *qazi* in an appeal against the *panchnama*, nor possibly is there any reference to interference in the working of *Panchayat* or a direct clash between the local *qazi* and caste or *nyaya panchayat* in civil matters.<sup>11</sup> There seems to have been some coordination and understanding between the two.

However, the cash nexus led to increased necessity of ensuring safety of records and agreements with other parties. The

people of both the communities therefore, chose to approach the local *qazi* for such transactions viz. attestation of documents, imprinting of *qazi's* seal on copies of documents, registration of sale, transfer or lease deeds, certificates, property disputes, etc.

### **Sale and Transfer of Properties**

While fixation of seals has been discussed elsewhere an interesting feature which needs elaboration is the mode of registration of sale and transfer of property rights. The practice of registering deeds of conveyance both of agricultural and residential property did exist under the Mughals as is clearly manifest in various documents relating to the seventeenth century. It appears that there was no regular and separate registration department under the Mughals, yet the local *qazi* of the area looked after this work.<sup>12</sup> Among the various duties assigned to the *qazi* it was expected that he should dispose of claims, inheritance and also write decrees and perform other legal duties (*kitabāt wa sajalāt wa tahrir wa taghrib*) concerning people of the area of his jurisdiction.<sup>13</sup> In an appointment letter issued in favour of Shaikh Karimullah for *qaziship* of *pargana* Fatehput, Sarkar Kara in *suba* Kashmir in 1106/1659 it was stated that the concerned *qazi* was also entrusted with the duty of affixing seals (*muharnama*).<sup>14</sup> The *qazi* was directed to supervise carefully all decrees, sale deeds, mortgage bonds and other legal documents. He was expected to keep his records properly for handing them over to his successor.<sup>15</sup> These duties, though administrative in nature, add new dimension to the functioning of the local *qazi*. This is the reason why we find *qazi's* seal along with those of officers and witnesses in various documents. Any parts could go to a *qazi* in such matters as is evident from various sale deeds between people of different communities.<sup>16</sup> However, it appears that whenever a non-Muslim chose to go to the *qazi* on dispute relating to sale or transfer of property, he was

expected to accept the terms which conformed to the legal practice of those times.

The following instances selected from the contemporary source-material illustrate the mode and procedure involved in registration of sale and transfer of property with the local *qazi*.<sup>17</sup> An eminent noble Diler Khan sold a portion of his house (*haveli*) as standing at the time of sale '*pukhta wa kham wa chah wa kanah*,' to Nawab Kamaluddin Khan, son of Diler Khan, son of Darya Khan. The property in question was specified with boundaries and its location was somewhere in *mauza* Nurullah Mamula in Shahjahanabad. The sale deed which was signed by two witnesses bore the seal of the *qazi* and a date sometime during the Ramzan of 20 RY of Aurangzeb.<sup>18</sup> The document was executed before Qazi Habibullah, *qazi* of Shahjahanabad and there is also a seal of *qazi-i-lashkar* (*qazi-ul-quzzat*) on the document.<sup>19</sup> Among Batala documents, there is a sale deed (*bainama*) relating to the sale of a house in the Muhalla-i-Julkian in 1104/1692. The sellers were Palla, Kripala and Chinta-the first two being sons of Ananta and the third son of Mahesa. The buyer was Sahachand, son of Haria, son of Dulab Rai, a Bhandari Khatri. The property was sold for Rs 48/-. There is also a mention of some people standing as surety. The deed was duly registered with the *qazi* of Batala.<sup>20</sup> In this document also legal formalities appear to have been observed. Another sale deed written both in Perisan and Bengali dt. 15 March 1005 Bengali SAnn/10.1.1692 executed by Pran Ballabh, resident of *pargana* Balrampur in respect of a piece of land sold to Daulat Rai for Rs. 3-6-10 bears the seal of Qazi Dost Muhammad.<sup>21</sup> It is interesting to note here that the non-Muslims had also started approaching the *qazi* for registration of their documents as a safety measure. The practice was slowly becoming popular as is evident from a document relating to a sale deed executed in the court of Qazi Mohd. Waliullah in 1711 A.D. when the Rajput *muqaddams* of

Yadgar sold their entire landed property to Mohan Lal Puri, the *qanungo* of Batala.<sup>22</sup>

The medieval sale deeds (*bainama*) were so meticulously drawn up that in a document dt. 10 Ramzan 40 RY of Aurangzeb i.e. 1116/1705 relating to sale of 5 biswas in village Papri Buzurg, *thana* Haveli, *pargana* Shamsabad we find names of sellers and buyers with separate shares of each of the sellers. The identity (*chehra*) of each was drawn up together with name, father's name, grandfather's name, age of buyers, etc. The sale deed bears various witnesses and has the signature and seal of the *qazi* affixed.<sup>23</sup> The practice continued in later documents also.

The Bilgram collection and Allahabad documents mostly relating to U.P. region contain a number of sale deeds and transfer deeds executed in the presence of the *qazis* of *pargana* Bilgram and *pargana* Sandila respectively. The sale deeds were drawn up in detail giving description of the property as also the antecedents of buyers and sellers. A sale deed relating to immovable property was written under the seal of *shariat panah* Qazi Mohd. Hafiz in 1083/1672.<sup>24</sup> Its copy was attested by Qazi Sayyid Ali at a later date.<sup>25</sup> Another sale deed for property sold was drawn up on 5 Ramzan 1131 A.H. and executed before the *qazi*.<sup>26</sup> The document also makes a mention of the person who wrote the contents. Qazi Abdur Razzaq of *pargana* Sandila registered in his court a sale deed drawn up on 17 Shahr Shawwal 1113/1702 in which one Ram Rai sold a piece of agricultural land with rights located in Bandipur in the same *qasba* to one Qazi Shaikh Mohd.<sup>27</sup> The document contains two seals, signature of five witnesses in Farsi and that of two in Hindvi language.<sup>28</sup> Qazi Imaduddin of *pargana* Sandila registered a sale of property in 1055 A.H.<sup>29</sup> One Qazi Sharfuddin's seal appears while attesting a sale deed of 11 Rabi-ul-Awwal 42 RY/1699 A.D.<sup>30</sup> An agreement effecting sale of one portion of garden along with 4 bighas and 5 biswas of *pukhta* land in Chak Donandi Pakir *qasba*

Sandila for which money was received and ownership (*malikana*) handed over was executed before the *qazi*.<sup>31</sup> The document bears the date 11 Ramzan 1084/1674. One Kanwal Sain sold his property consisting of one portion of land and two-storeyed shop in a locality in Shahjahanabad for a specified amount. The document which was registered with the *qazi* bears the date 17 Jamadi-ul-Sani 47 RY of Aurangzeb.<sup>32</sup> It also states that the seller had received some money in cash and the rest would be given to him later by the buyers. Qazi Muhd. Ali affixed his seal on an agreement relating to sale of some land, gardens, trees, etc. with the year of the *qazi's* seal as 1150 A.H.<sup>33</sup> At a slightly later period we find the *zamindar* of *mauza* Rauda, *pargana* Milanuh, *sarkar* Lucknow, *suba* Avadh selling a part of agricultural land in Shahpur to Siya Ram Qanungo. The document was registered with Qazi Sadullah with the year of his seal as 1157 A.H.<sup>34</sup> These illustrations while adequately indicating an increasing trend towards sale and purchase of agricultural and residential property also highlight *qazi's* court as a registration department for such transactions.

Transfer of Property (*tamliknama*)<sup>35</sup> and distribution of property (*qismatnama*), both agricultural and residential, was sometimes made under the seal of the *qazi*. The transfer was either voluntary as from father to sons and daughters or mutually agreed upon between the parties concerned. A document in the form of agreement (*iqrarnama*) relating to transfer of agricultural land was executed before a *qazi* in the presence of several Mussalmans who recorded their witnesses.<sup>36</sup> The transfer document which bears the date 7 Shawwal 1052 A.H. (1.9.1642) was between one Shaikh Kamal, son of Shaikh Bhikkam alias Shaikh Mustafa, son of Shaikh Isa Abbasi on the one hand and his son Shaikh Faizullah and his sons on the other, transferring agricultural land, residential house, gardens and other things which were inherited or earned by Shaikh Kamalat Sandila and other villages. The agreement was signed before the *qazi* with a view that it should serve as a proof (*sanad*) in

future and that any other claim made against the said registered transfer deed should be treated as invalid.<sup>37</sup> The document also bears the seal of *sadr-i-jahan* Murtaza Khan on the top.<sup>38</sup> In a voluntary transfer document dt. 25 Jamadi 1097/1686 one Aizuddin, son of Ghulam Husain of *pargana* Sandila, *sarkar* Lucknow effected the distribution and transfer of his property.<sup>39</sup> One Hisanuddin divided his property among his children by specifying the shares of the recipients. The document was registered with the *qazi* whose seal bears the year 1083/1652.<sup>40</sup> An agreement for transfer of property by Sayyyid Shah Muhd. To Musammat Nur Jahan was registered with the *qazi* Sharif Muhd. Yusuf in the year 1061/1651.<sup>41</sup> Sometimes ladies also transferred their property in favour of relations but they usually took the help of the *wakil*.<sup>42</sup> The seal of the *qazi* appears on such transfer deeds also.<sup>43</sup>

In a particular document, a transferer after transferring his property located in *mauza* Badruddinpur, *tappa* Korala Amwal in *pargana* Bilgram defined his will also which was recorded in the concluding paragraph of the document.<sup>44</sup> After the statement of the transfer was recorded, the signatures of the witnesses were drawn with the words : *bayan waqf ast and gwah shud*. The document was registered with Qazi Wali Rustam of Bilgram.<sup>45</sup> In a still another document the recipients of property under-took to pay off debts of the deceased, if found any at a later stage. The agreement written on 2 Rabi-ul-Awwal 1070/1660 was duly registered with Qazi Shariat Baldah of Kanauj.<sup>46</sup>

Copies of original sale and transfer deeds were mostly attested by the *qazi* to ensure the authenticity and credibility of the document. The seal of the *qazi* bore the title and name of the *qazi* along with the year and it was affixed at the beginning or on the top of the document.<sup>47</sup> In some documents we find *qazis* attestation on the copy of the original at close of the document.<sup>48</sup> It is also observed that *qazi's* seal did not necessarily correspond to the exact

year in which it was imprinted on document. Probably a seal prepared in a particular year or in the year of appointment of the *qazi* continued for several years. There are several instances of this type.<sup>49</sup> In a particular sale agreement attestation of a *qazi* was done, when the original agreement had already become 135 years old.

*Sale and Transfer of zamindari rights* : A number of sale deeds and transfer deeds of *zamindari* rights relating to primary *zamindars* having hereditary alienable rights were registered at the court of the *qazi*.<sup>50</sup> The Mughal state considered it their duty to protect the rights of *zamindars* and encouraged such registration so that a proper record of claims could be maintained.<sup>51</sup> A *farman* of Akbar recognizes certain persons as owners of the land and permits them to sell their *milki* land or to give it on lease for cultivation and realize their *malikana* share (*hissa-i-malikana*).<sup>52</sup> Aurangzeb's *farman* to Muhd. Hashim, *diwan* of Gujarat, in 1079/1669-70 preserved in *Mirat-i-Ahmadi* speaks of *zamindars* as *malik* or *arbab-i-zamin* who possessed the right to sell their land or *malikana* rights in the land. These rights were hereditary. The *zamindaras* could also mortgage their *malikana* rights.<sup>53</sup> Two such sale deeds relating to villages in *pargana* Bal, *sarkar* Saran, *suba* Bihar during the period of Aurangzeb were registered with the *qazi*. By one sale deed Gopal sold his *zamindari* rights of village Osti along with *deakhili*<sup>54</sup> village Mirzapur in *pargana* Bal to Syed Mohd. Qasim at an earnest amount of Rs. 184 in 1103/1692.<sup>55</sup> By another sale deed Ranjit Singh and others sold *zamindari* rights of the village Bathauri Basant in *pargana* Bal to Shaikh Bahauddin at an amount of Rs. 170 in 1106/1694.<sup>56</sup> An agreement (*tamassuk*) giving date 9 Rajab 1088/1677-8 was reached between the *muqaddams* for transfer of the rights over a *mauza*.<sup>57</sup> A copy of this agreement was attested by the *qazi*.<sup>58</sup> In this period we have not come across any document relating to transfer of *madad-i-maash* rights.

*Lease Deeds (patanama)* : In the later period of Aurangzeb's reign we find *qazi's* seal on lease deeds of *madad-i-maash* grants. It is evident that some of the *madad-i-maash* assignees took the help of tenants (*muzariya*) to reclaim the fallow land (*zamin-i-uftada laik-i-zira'at*). The tenant thus settled acquired somewhat hereditary character and was governed by the unalterable *patta* granted to him by the grantee. Thus leasing of the *madad-i-maash* land by the grantee and its subsequent registration in the court of the *qazi* had already started. With the issue of Aurangzeb's *farman* of 1690 A.D. defining line of succession to such grants the practice became more common in the early 18<sup>th</sup> century onwards. In case where a portion of land was cultivated on lease (*patta*), have paid to the government or the *zamindars*.<sup>59</sup> A seal of Qazi Sayyid Hasan Muhd. of Batala appears on a lease Mahbub Alam, holder of a *madad-i-maash* grant who leased amount was taken in advance and the lease deed was signed before the *qazi* and witnessed by several people.<sup>60</sup> The land in question was located in a village called Paighampura situated in the *tappa* as also *pargana* of Batala in the upper Bari Doab of Punjab.<sup>61</sup> In another document of slightly later period which is a copy of a *parwana* we find the attestation of Qazi Muhd. Nasir with the year of the seal as 1123 A.H. The year 1117 A.H. leasing out the *mauza* of Ikhtiarpur for Ts. 100 with effect from *kharif fasl* 1118/1707.<sup>62</sup>

*Mortgage deeds* : Like the sale and transfer deeds the mortgage deeds (*rahn nama*) were also executed before the *qazi*.<sup>63</sup> Most of the mortgage documents relate to the early 18<sup>th</sup> century. According to a reference in the Oriental Records the *qazi* of the locality affixed his seal on mortgage deed also,<sup>64</sup> in addition to other documents viz. sale deed, gift deed, arbitration and marriage deed. *Qazi* of Batala affixed his seal on a mortgage deed among other things.<sup>65</sup> An earlier reference to mortgaging of a property is found in a document dated 10 Rabi-ul-awwal 1036 A.H. relating to a dispute arising from inheritance.<sup>66</sup> In the Bilgram Collection we



find one mortgage deed (*tamassuk rahn*) in which one Sayyid Muhd. Panah mortgaged the revenue of 46 bighas of cultivated (*pukhta*) *madad-i-maash* land and some gardens in *mauza* Ikhtiarpur, *pargana* Bilgram in order to get a loan. The document was written on 14 Zilhij 1132 fasli corresponding to 1136 A.H. and bears seals and signatures of witnesses.<sup>67</sup> Gift deeds (*hibanama*) were also executed before a *qazi*. We have evidence of this in Bilgram and Allahabad Documents mostly relating to a slightly later period. In one such reference the *faujdar* and *amin* of *pargana* sandila in *Sarkar* Lucknow gifted out to Shaikh Halim Hafiz Kalam 10 bighas of land and a garden as *inam*. The *shiqdar* and *karkun* drew up the *chaknama* and the done was settled in the newly acquired possession. The document which bears the date 21 Rabi-us-Sani 1065/1655-56 was executed before the *qazi*. There is a seal of one Nawab Mahabat Khan also on the document.

Sometimes transfer of a specified share from the revenue of a *jagir* was also made under the seal of the *qazi*. Nawab Kamaluddin Khan alias Rustam Khan transferred the income from octroi and gardens from his *jagir* to his sister for her maintenance vide a document written on 14 Rabi-us-Sani 1116/1705. The transfer of income was duly registered with the office of the *qazi*.<sup>69</sup>

The local *qazi*'s dealings in registration of civil transactions including *zamindari* rights of the people, have led some scholars to believe that he took up land revenue disputes also.<sup>70</sup> The impression probably gains strength partly in view of an imperial farman discriminating between *ushri* and *kharaji* lands for the purpose of land revenue<sup>71</sup> and partly some clauses relating to handling of disputes arising from succession to *madad-i-maash* grants.<sup>72</sup> From the daily reports, *dastur-ul-amals* and chronicles, it is evident that the local *qazi* was seldom entrusted with deciding any kind of land revenue dispute. Such disputes fell under the sole preserve of the *diwani* office, which usually directed the *amils* or the *amins* to

investigate the facts. Aurangzeb's farman issued in 16 RY/16.6.1672 as reproduced in *Mirat-i-Ahmadi* states in unambiguous terms that revenue disputes were none of the business either of the *qazi* or of the *kotwal*.<sup>73</sup> While emphasising on the greater coordination in the functioning of the governor, *faujdar*, *kotwal* and the *qazi*, the imperial order points out that defaulters of land revenue were to be entrusted to the diwani department. Even the *faujdar*s who in most cases acted as *amins* also<sup>74</sup> were not permitted to interfere in the revenue affairs, although they could chastise the defaulting *zamindars* to ensure smooth collection of revenue. The *amin* was usually appointed to conduct enquiries in land revenue disputes and send reports to the authorities.<sup>75</sup> The action taken on a few complaints apart from indicating the exclusion of the *qazi* from revenue matters, point to the dominant influence of the chowdhuries and *muqaddams*, who usually settled disputes over *zamindari* and/or *qanungoi* matters through the *panchs*.<sup>76</sup>

In a *wiqaya* of 2 Rabi 1122 RY of Aurangzeb from Ranthambore it was argued by the *waqianigar* that the *qazi* of *pargana* Merot, *suba* Ajmer, was very much within his rights to report any matter concerning the area of his jurisdiction to the authorities but he was not permitted to invoke *shariat* and interfere in any form with the revenue administration.<sup>77</sup> It was also mentioned in para 32 of 1672 *farman* that 'if there is a case of the *khalisa* revenue department against a person, report the fact to the *subedar*, take a *sanad* as suggested by the *subedar* and act accordingly.'<sup>78</sup> Thus the *qazi* did not come into picture at all in revenue disputes. There is probably no evidence with us to show that the local *qazi* ever tried a land revenue case and passed his judgement.

The local *qazi* could only attest the agreements to bonds (*muchallka*) entered into by the intermediary *zamindars* for payment of revenue by a specified period on the strength of sureties. He also

attested the original or copies of the *sanads* and *parwanas* of nankar grants to confirm their authenticity. The *farman* of 1690 A.D. empowered the *qazi* to take up the question of proper succession to a *madad-i-maash* grant only in accordance with the imperial regulations which were not principally in accordance with Islamic law.<sup>79</sup> There is no reference to suggest that in the 17<sup>th</sup> century he could pass judgements on the allotted shares of the grantees. The *qazi* could take up cases of encroachment on the *madad-i-maash* grant or forcible dispossession of the original grantee. In such cases the *qazi* investigated the rightful claim which was mostly supported by documentary evidence or in the front of a *mahzar* signed by respectable people of the area certifying the claim.<sup>80</sup>

### **Public Representation**

In the absence of any definite machinery to channelize the public grievances, the practice of *mahzar* played an important role in this period. The *mahzar* was any document certified by the eminent or respectable people of the area, usually attested under the seal of the *qazi* and was meant for presentation to the authorities.<sup>81</sup> While the people were at liberty to carry the *mahzar* directly to the emperor or the governor or other influential officers the local *qazi* too used to attest and sometimes forward the complaints or grievances or representation from the individuals or groups of people, made in the form of a *mahzar* to the higher officers. The *sanad* of a *qazi's* appointment included a directive to the people of the area that they should refer their petitions to the *qazi* in whose jurisdiction it lay and that they should not consider anybody else as his equal in such Jurisdiction.<sup>82</sup> The *qazi* was available almost in every pargana or village with a Muslim population large enough for it to be classified as a *qasba*,<sup>83</sup> or in fort areas having such a population.<sup>84</sup> Where there was no *qazi* people could carry their petitions to the *qazi* of the neighbouring pargana for his seal and endorsement.<sup>85</sup> The support from witnesses and attestation of the

document by the *qazi* recognized publicly the authenticity and gravity of the complaint and also provided information to the authorities.

A study of contemporary source material, Shamsabadi and Bilgram collections preserved at Aligarh, Allahabad documents and the official manuals of Aurangzeb's period clearly throw light on the nature and scope of complaints drafted in the *mahzars*. These *mahzars* included their alia (i) high handedness of officers including *faujdar*s, *choudharies* *muqaddams*, (ii) forcible dispossession, assessment and realization of land revenue and other related disputes in respect of *madad-i-maash* grants, (iii) representations of the *madad-i-maash* grantees for renewal and confirmation of their grants, especially when there was a loss of *sanad* due to death of the original grantee, (iv) civil disputes and (v) complaints of the *qazi* himself against the *faujdar*. The method employed in the *mahzars* usually followed one of these courses (a) when the individual simply represented to the *qazi* who affixed his seal on such representation for onward transmission to the authorities concerned, (b) when the individual invoked the collective testimony of the respectable people of the area about the truthfulness of the grievances confirmed through the *qazi*'s attestation and (c) when the *qazi* himself appealed to the emperor or *sadr-i-kul* through a *mahzar* signed by the Shaikhs and Sayyids of the area.

An early positive evidence of public complaints sent in the form of a *mahzar* has been found in a reference made in Shahjahan's *farman* dt 27 Aban Mah Ilahi IRY-1037/1627 which was addressed to the officers of *Sarkar* Khairabad.<sup>86</sup> According to this, one Shaikh Abdul Munim and his party belonging to *pargana* Sadrpur had submitted a *mahzar* in the imperial court against the high-handedness and oppression of Kapoor, Kalyan, Dharma Chand, Kishan Das and others. The *mahzar* bore the attestation of the residents of the locality certified under the seal and signature of the

local *qazi*. It was stated in the *farman* that in view of the *mahzar* which confirmed the grievances, the culprits should be punished without any deviation from the imperial instructions.<sup>87</sup> Another representation from two groups of people belonging to the same *pargana* was submitted to Aurangzeb through a *mahzarnama*.<sup>88</sup> The *mahzar* proved so forceful that immediately an imperial farman was issued in 1070/1659 by which the *qazi* was directed to find out the reality with all proofs and punish the offenders without delay.<sup>89</sup> The *ryots* of Gopinathpura filed a *mahzar* against the *mushrif* for his arresting and forcibly exacting money from them. The complaint resulted in the appointment of an *amin* to conduct an enquiry.<sup>90</sup> One Naroji Deshmukh and a group people belonging to Thana Taj Kalan, *Sarkar* Basim represented against the oppression of Nusrat Khan *faujdar* and his associates.<sup>91</sup> The *faujdar* was transferred. In another complaint Khudadad, *gumastah* of a Mughal noble Aziz Khan, was charged with the alleged killing of innocent people and plundering their property. The petition was sent to the royal court in the form of a *mahzar*. Consequently imperial orders were issued to the *faujdar* to take necessary action against the culprit and hand him over to the *qazi* for punishment.<sup>92</sup> On a *mahzar* from some residents of Ahmedabad that, despite implorations, their fruit trees had been forcibly felled by the elephant and camel drivers, an imperial directive was issued that the facts should be ascertained and the offenders severally reprimanded.<sup>93</sup> It was also added that a bond be taken from the drivers to the effect that they would not commit such an offence in future.<sup>94</sup> It appears that sometimes even the poor could resort to securing a *mahzar* for the redress of their grievances. One Daulat Kadim approached the local *qazi* for attestation of his complaint before he could present himself before the *kotwal* at Burhanpur.<sup>95</sup> Sometimes a dismissed officer could seek support from local people for his good behavior. A *kotwal* dismissed from service for indulgence in wine was recommended by the Bakshi-ul-mulk for reinstatement on the basis of Kotwal's petition of

repentance forwarded under the seal of Qazi Sayyid Muhammad. However, Aurangzeb refused to take him back in service.<sup>96</sup>

There are numerous references to *mahzars* relating to encroachment harassment or forcible dispossession of the grantees from their *madad-i-maash* grants. It is a well-known fact that the *madad-i-maash* grants, whether with service or without any specific service, were exempted not only from land revenue but from all kinds of cesses and customary dues.<sup>97</sup> However, despite such an immunity from taxation, grantees were harassed by the jagirdars or local revenue officers on one pretext or another.<sup>98</sup> In case of loss of *sanad* or failure to produce the documents, the revenue officers took the first opportunity to levy *mal-o-jihat* and *ikhraja*t. In such eventualities one of the methods adopted by the grantees was to express their complaints through *mahzars* signed by the eminent people of the area certifying that the grantee or his ancestor was inpossession of the grant and that he needed protection from encroachment. A complaint about undue interference and illegal demand of customary dues from a grantee led to the issue of an imperial *farman* dt. 5 Ramzan 43 R.Y./1699 forbidding realization of such dues.<sup>99</sup> The Jangams represented through a *mahzar* that despite the nature of their religious grant, the revenue officers had assessed their five havelies and forcibly realized Rs. 500/- from Arjun Mal of the *math*. The petition was heard and a *parwana* was issued in 1085/1674 to the local officers to return the revenue.<sup>100</sup> The officers were also enjoined not to interfere with the grant in any way.<sup>101</sup> Similarly, on receipt of a *mahzar* from a grantee, a *parwana* addressed to local officers of *pargana* Sandila, *sarkar* Lucknow, *suba* Avadh, directed that none should interfere in the *madad-i-maash* grant and that the choudhary of the village must desist from such interence.<sup>102</sup> In Bilgram collections we find tow such *mahzars* of Aurangzeb's period. In the first, dt. 1077/1667, one Sayyid Abdul latif, resident of *pargana*, Bilgram, referred to the encroachment in his grant of 130 bighas by some revenue officials

who were insisting on collection of land revenue, The *mahzar* bore signatures of various people including Sayyid Ghulam Muhammad the *mufti*, Nazarulla, the *zamindar* of *Mauza* Hitoria whose signature was in Hindvi, *zamindar* Girdhari, etc.<sup>103</sup> The second *mahzar* written on 10 *Jamadi-ul-awal* 1081/1671 refers to a similar complaint from the same area.<sup>104</sup> The complaint was certified by Qazi Muhammad Yusuf.<sup>105</sup>

There is substantial evidence to prove that in the event of death of the original grantee, the heirs of the deceased sometime presented themselves before the emperor or *sadr-i-kul* with the *mahzar* which certified their genuine claim and on the basis of this they requested renewal and/or confirmation of the existing grant in their favour. Such *mahzars* were normally forwarded to the *suba sadr* who was also called as *sadr-i-juz* who, after satisfying himself, issued orders for renewal or restoration and subsequent non-interference in the grant.<sup>106</sup> In case the grant was already resumed as *muqarrari* (on fixed revenue), a separate order known as *parwana-i-behali* was issued for the release and change of the grant into *madad-i-maash*.<sup>107</sup> The reports from the Deccan refer to the restoration of *madad-i-maash* grant of 40 bighas to Alam Khatun, widow of Dilawar Khan *pargana* Butawal in Khandesh on the basis of her iltimas (petition).<sup>108</sup>

Sometimes in disputes relating to possession of *madad-i-maash* grant or its documents or forgery in documents, *mahzars* were produced in defence of the case.<sup>109</sup> In civil transactions also a plaintiff could bring forward his case in the *qazi's* court by way of a *mahzar*.<sup>110</sup> The Surat case was presented in the emperor's court through *wakil-i-shar* in the form of a *mahzar*. It stated that prince Murad Baksh (since deceased) had taken a loan of Rs. 5 lakh from the Surat merchants during the contest for throne in 1656 and signed a bond under his seal for repayment. Legal arguments were strengthened by physical verification of the entries made in the

books of the treasury. Aurangzeb accepted the claim and promised its repayment.<sup>111</sup> At times, details about the extent of *madad-i-maash* viz. portion of fallow and cultivable land or land actually cultivated in the old possession were also recorded in the *mahzarnama*, in consultation with the local people and officials as a proof.<sup>112</sup> Thus the *mahzar* while recognizing the genuine claim of the persons concerned also underlined the importance of witnesses in the whole process.

In addition to the public, the officers could also send their representations or individual grievances in the form of *mahzars*. On receipt of such complaints the imperial court called for reports from the *qazi* or *amin*, usually through the governor.<sup>113</sup> The governor himself could ask for reports from the subordinate officers including the *qazi* and the *amin*.<sup>114</sup> The latter two sometimes sent their reports styled as *mahzarnama* or *majlisnama* by associating the respectable people of the area in order to avoid chances of any doubt in the statements made by them in these reports.

Since the *mahzars* were usually routed through the *qazi*. It appears the latter acquired the status of an official reporter on various happenings in his area. While emergence of such a status was salutary and at times, probably supplementary with that of the *waqia nigar* yet the *qazi*, in this period being aware of his religious position and the capacity to seek immediate support from religious class, could exploit public opinion to the detriment of the executive officers. Khafi Khan states *qazi's* reports were sympathetically heard and the officers asked to explain their conduct or alleged malpractices.<sup>115</sup> Aurangzeb's alleged show of favour and credibility to the *qazis*<sup>116</sup> gave rise to *mutual* jealousies between the *qazi* and other Mughal officers.<sup>117</sup> Similarly, at the local level the existence of multiplicity of jurisdiction over disputes sometimes led to a difference of opinion or interpolation of *mutual* authority between the *qazi* and the *faujdar* or the *kotwal*. In this



atmosphere one of the methods used by the *qazi* was to defend his position by appealing to the emperor or *sadr-i-kul* or *qazi-ul-quzzat* in the name of *shariat* and get a *mahzar* or *majlisnama* signed by the eminent people of the area.<sup>118</sup> In a particular case of this kind, a *qazi* leveled certain allegations against the *faujdar* and sent his report to the *sadr-i-suba*. The *sadr* appointed another *qazi* to investigate the complaint and submit a report to him after making an on-the-spot study of facts.<sup>119</sup> In 22<sup>nd</sup> R.Y. of Aurangzeb *qazi* Muhammad Akram of *pargana* Merot, *suba* Ajmer complained against Sadullah Khan who was *faujdar*, *amin* and *karori* of the place against *faujdar's* realization of certain dues not sanctioned under the *shariat*, in the form of *mahzar*.<sup>120</sup> On this report the *waqianawis* of the place reported that the concerned *qazi* was fully justified to report anything which according to him sounded improper and fit for investigation but he also added that the *qazi* was not authorized to interfere in any way in the traditional pattern of land revenue administration.<sup>121</sup> This was an important observation which indirectly confirmed the force of the local customs (*urf*). It also underlined that the *shariat* had not much to do with the procedure adopted or punishment awarded by the *faujdar*s or the *kotwals* in certain cases. Leaving a few exceptions of *mutual* jealousies or accusations over repective jurisdiction, the *mahzars* were usually effective petitions and the concerned officers could not afford to ignore them. When the Marathas, encouraged by their earlier successes of Surat, raided Burhanpur in 1682, looted suburbs and perpetrated cruelties on the innocent population, it was the *qazi* of the place who forwarded a *mahzar*; under his seal to the imperial court condemning the incompetence of the governor and other officers. The intensity of the protest was so great that in the complaint the residents of the area had threatened to stop Friday prayers if effective steps were not taken to defend the city.<sup>122</sup> At a slightly later period we find the *qazi* sending a joint report about the demoralized condition of the Mughal soldiers in the wake of the Deccanis' advance in 1119/1708.<sup>123</sup> Similarly petitions relating to

repairs of old buildings, mosques, gates and sarais for the benefit of travelers were forwarded under the seal of the *qazi*. Subsequently orders were issued to the diwani office for sanctioning such expenditure.<sup>124</sup>

Thus the practice of sending representations and grievances in the form of *mahzar* became quite popular in Aurangzeb's period. It proved an effective instrument for eliciting response from the authorities and relief to the complainants. The fear of report and subsequent action possibly prevented the officers from resorting to unlawful activities. It also acquainted the higher authorities with the public grievances which could not have possibly reached directly due to negative or sometimes tyrannical attitude of some of the officers. As the disputes increased, people resorted to more and more submission of the *mahzars* in support of their claims. Such a tendency is very much manifest in the eighteenth century records as we find many more *mahzars* of the period still surviving. On the basis of these *mahzars* one can see a relationship between the people at grassroot level and the authority at the top through local *qazi* as the connecting link. This pattern, while apprising us of the motivations, offers a fascinating parallel with the modern system of public petitions.

In relation to the populace the local *qazi* was becoming more or less an instrument for reports on various matters concerning the *shariat*, judicial enquiries, representations from the people attested under his seal, market rates, *jizya* and other affairs in the area of his jurisdiction. The imperial court, on receipt or complaint and grievances, could also call for report from the *qazi* usually through the governor. The reports of the *qazi* can be classified into five broad categories viz. (a) when a directive was issued from the imperial court to the governor who in turn sent it to the local *qazi* for investigation and report,<sup>125</sup> (b) when the governor on his own authority demanded a report from the *qazi* about the affairs in the

particular area on receipt of a representation or otherwise,<sup>126</sup> (c) reports on grievances of an individual or a group of persons usually in the form of a *mahzar* signed by the *sayyids*, the Shaikhs or the prominent people of the area attested under his seal,<sup>127</sup> (d) *qazi's* own grievances attested by prominent people in the form of a *majlisnama* and (e) judicial reports. On the basis of these reports prompt action was taken by the concerned officials. Reporting had, therefore, become a powerful weapon with the *qazi* to bring to light the high handedness of the local executive officials.

Following the example of imperial government, the local *qazi* too was reconciled to the prevalent traditional system of caste and nyaya panchayats for settlements of disputes among the people. The legal provision relating to civil contracts and disputes was offered to enable the people to contact the local *qazi* and some of the Hindu village functionaries viz. *chowdharies*, *muqaddams*, *qanungos*, in addition to Muslims, had started approaching him in matters of sale, transfer, gift and sometime mortgaging of their property for authenticity and security of the records but as the *qazi* broadly applied the *shariat* in all such cases most of the rural folk, primarily the Hindus, still avoided going to him and stuck to their traditional system. In this respect the *qazi's* position mostly remained only de jure. Since the Mughal land revenue system was primarily the product of the customs coupled with imperial regulations, the *qazi* was not allowed to interfere with it. However, for all practical purposes the *qazi* had become a de facto reporter of the area of his jurisdiction and in this way he happened to be one of the many eyes and ears of Mughal administration.

## References

1. Munshi Nand Ram, *Siyaq Nama* pp. 86-87; Sarkar, *Mughal Administration*, p. 96.
2. *Waqiat-i-Ajmer*, p. 45.

3. Yusuf Husain; (ed.), *Selected Documents of Shahjahan's Reign*, pp. 189-90.
4. In the seventeenth century *mahzars* had become very common. Most of these related to grievances of people residing in area of a *qazi's* jurisdiction. A majority of these were concerned with restoration of *madad-i-maash* grants or request from the grantees for non-interference of revenue officials in their grants, Bilgram Documents (AMU collection) No. 7, 27; Z. Shakeb (ed.) *Mughal Archives*. P. 326. Also see M.L. Bhatia, 'Public Grievances through *mahzars*; A Case Study under Aurangzeb, PIHC, Bodh Gaya Session, 1981, pp. 295-302.
5. Munshi Malikzada, *Nigarnama-i-Munshi*, pp. 78, 79, 84; Yusuf Husain (ed.) *Selected Documents of Aurangzeb's Reign*, p. 41.
6. Khafi Khan, *Muntakhab-ul-Lubab*, II, 256-8, 550.
7. Ali Muhammad Khan, *Mirat-i-Ahmadi*, I. 268-72, 296, 298-99.
8. Jadunath Sarkar, *Mughal Administration*, 1952, pp. 96, 108.
9. Panchayat was an assembly of five (usually of a family or a caste of a village). It derived all powers from the old customs and traditions. See Lallanji Gopal and Barpujari for detailed discussions on the subject. In the 12<sup>th</sup> and 13<sup>th</sup> centuries Rajasthan and Gujarat *Panchkula* consisting of five families or five headmen has been profusely used. The Mughal empire could not be in a position to do much for the village and, therefore, panchyat was rather a necessity than choice. In the local context, the regulatory body for artisans and other occupations was often called Panch. In Gujarat the head of such a body was the patel and this indigenous institution formed an effective pressure group, especially in a trading centre like Surat. However, Pearson's contention that the mahajan was the head of merchant guilds does not appear to be

correct because guilds never amalgamated on their own. (Merchants & Rulers in Gujarat). Also see, Richards, 'Mughal Administration in Golconda', 1975, wherein it is confirmed that even after the imposition of Mughal administration in Golconda 1688, the Telugu villages remained independent to the state for settlement of disputes. Later under the Peshwa rule too Muslims endeavoured to settle the disputes with the aid of a *qazi* while inter-communal disputes were invariably referred to the panchayat, George Frank, Panchayats under the Peshwa, p.17. Doc. XIII of the Mughals and Jogs of Jakhbar refers to a panchayat of the bazaar of Jakhbar township. It is relevant to add the even criminal cases relating to the Hindus did not come up before the *qazi*. Also see Col. Tod, Annals, II, 1429. It was only under the highly centralized system of British administration that judicial role of *fati* Panchayats was usurped by the state. However British orientalists had realized the goodness of corporate life in the rural areas, though belatedly.

10. Bilgram Documents No. 21 dt. 1090/1679 (muafaq karar panchayat faisal dada) and Doc. 26 for assent of notable people (buzurgan) or from community (jama-it-Musalman).
11. Apart from caste system and panchnama, traditional alienability of the village people from the government officers, possible constraints of money and lack of influence prevented the villagers from approaching the *qazi* for settlement of their disputes. If, at all, there was any appeal against panchayat (which was not possible under normal circumstances), it could lay with the governor and not with any *qazi*.
12. As early as in Babur's period we find a sale deed executed by one Maulana Fathullah, Abdullah and Piyare, sons of Ahmad in favour of Miran Sayyid Nizamuddin for selling the right of Milkiti over 20 biswas of land in village Paprikhurd, tappa

Haveli, khita Shamsabad at a price of 700 current *tanka-i-Adil* to Sikandar and in consideration of annual payment of 300 tankas. The sale deed is dt. 25 Rajab 936/1530 and bears signature of Qazi Ismail and many witnesses, Indian Eco. & Social History Review, IV, 1967 Irfan Habib “Aspects of Agrarian Relations .... Etc.” pp. 220-21 In Akbar’s period also many sale deeds of immovable property were reduced to writing by selected officers and influential people for registration with the *qazi*. See Proceedings of Indian Historical Records Commission, Delhi, 1948, pp. 54-57; also see Bilgram Collections, Sambhal Documents & Allahabad Documents for U.P.; Some Mughal Farmans, Sanads, Parwanas etc. (1558-1812), ed. tr. K.K. Datta, Patna, 1962, p 104 relating to Bihar Suba, while *Faramin-i-Salating*. ed. Bashiruddin Ahmad (1918) Delhi contains documents relating to Punjab, Ajmer and Shahjahanabad. The practice was slowly becoming popular under Jahangir and Shahjahan also.

13. *Nigarnama-i-Munshi*, Munshi Malikzada, Lucknow, p. 122.
14. *Siyag Nama*, Munshi Nand Ram, p. 86.
15. *The Hedaya*, ed. & tr. Hamilton, p. 336.
16. *Bilgram Collections* Doc. No. 4, 12, 14, 15, 18, 49.
17. The documents mostly relate to areas of northern India viz. Punjab, Delhi, U.P. and Bihar. It does not cover sale/transfer of zamindari rights or leasing out of *madad-i-maash* lands. The second half of seventeenth century is important in the sense that the information deduced in a good number of documents enables us to trace the earlier trend and also to find out as to what happened in the 18<sup>th</sup> century when innumerable property deals in rural and urban areas were registered in the *qazi*’s court for safety and authenticity.

18. *Faramin-i-Salatin*, Doc. 54 of 1087/1676, p. 70.
19. *Ibid.*
20. I.O. 1720 (64) (30) as quoted in *In the Bylanes of History*, J.S. Grewal, p. 7.
21. *Proceedings IHRC*, 43<sup>rd</sup> session, Lucknow, 1945, Private Collections acquired by National Archives of India vide S. No. 16.
22. *Mughal and Sikh Rulers and Vaishnavs of Pindori*, ed. Grewal and Goswamy, Document 2.
23. *Shamsabadi Collection* Doc. 17; also see, *IESHER*, (1967), Irfan Habib, p. 232.
24. Bilgram Document 32; for an earlier sale deed of 21 Rabi 1957 for sale of a plot of residential land out side the fort of *qasba* Bilgram, see Bilgram Doc. 6.
25. *Ibid.*
26. *Ibid.*, 66.
27. Allahabad Document 51-A.
28. *Ibid.*
29. *Ibid.*, 464.
30. *Ibid.*, 435, 464.
31. *Ibid.*, 609 a & b.
32. *Ibid*, 223. It appears that some Hindus whie registering the documents with the *qazi* took the help of some one who had a knowledge of procedure adopted in conveyance deed (Allahabad Doc. 223; Bilgram Collection No. 11).

33. *Ibid.*, 45.
34. *Ibid.*, 43.
35. Bilgram Collection Doc. 27 dt. 12 Ramzan 1147 A.H. and Doc. 44 (undated). It appears that *tamliqnama* was more a deed of gift in which the property owned by the benefactor as a part of his inheritance was made over to the donee in the form of a gift or conveyance voluntarily as is clear from the following words used in such documents; “*iqrar kard wa eiteraf sahi shar, namud dar halat seht nafs wa sabat aql*,” etc. See also, Allahabad Doc. 357; *Faramin-i-Salatin* Doc. 158, 160.
36. Mughal Archives, ed. Z. Shakeb (Hyderabad), p. 333.
37. *Ibid.*
38. *Ibid.*
39. *Ibid.*, 432; *Bilgram Document* 44.
40. Bilgram Document 26.
41. *Ibid.*
42. *Wakil* in all probability was used for any person who represented the other, more accurately in the capacity of an agent and not like the modern lawyers to defend the accused.
43. *Bilgram Colleciton*, Document No. 34.
44. *Ibid.*, Doc. No. 26.
45. *Ibid.*
46. *Ibid.*, Doc. No. 41.
47. Various Allahabad and Bilgram Documents.



48. *Mughal Farmans*, ed. K.P.Srivastava, I (Lucknow), Nos. XXVIII. XXIX. The practice was a departure from the established customs. It is difficult to ascribe any definite reason to his. The possibility that the new practice was adopted to avoid forgery is very much there.
49. *Bilgram Document* No. 36 of 1086. 1674; 37 of 1099, 1688; 40 of 1088 1677, etc.
50. Various Allahabad Documents concerning sale and transfer of *zamindari* rights during Aurangzeb's period as quoted by Irfan Habib, *Agrarian System of Mughal India*, pp. 154-63.
51. S. Nurul Hasan, "Position of the Zamindars in the Mughal Empire", *IESHR*, I (1954), 116. cf. A document of March 1530 records the sale of superior rights (*milk-o-haqq-i-khoti*) over a village at a price of 700 Tankas and subsequent transfer of right to collect revenue etc. The document bears signature in *tughra* of Qazi Ismail (Shamsabadi Collection Doc. 1).
52. Akbar's *farman* dealing with privileges of the proprietors (Bilgram Doc. 7), also see, Irfan Habib in *ESHR* (1967), pp. 205-32.
53. *Mirat-i-Ahmadi*, I, 173; Sharaif-i-Usmani Doc. 4 quoted in *IESHR* (1967), Irfan Habib "Agrarian Relations" cf. The superior rights of the *zamindar* included ceses or imposts, as also, control over trees, fruit, waterchannels, tanks, land cut in by a stream (see Bilgram Doc. 3 of 1531 A.D., 4 of 1543 A.D.; Shamsabadi Doc. 14 of 1582 A.D.).
54. For classification of villages i.e. *asli* and *dakhili*, see *Siyaq Nama*, pp. 33-43.
55. K.K. Datta, *op. cit.*, Basta No. 329, p. 40.
56. *Ibid*, Basta No. 329, p. 40.

57. Allahabad Document 329.
58. *Ibid.*
59. S. Nurul Hasan, "Position of the Zamindars in the Mughal Empire" in *IESHR*, i, no. 4 (1964), 107-19. Sometimes tenants refused to pay revenue to the *madad-i-maash* grantees who resorted to legal action for recovery of their dues (B.R. Gover "Land Rights in Mughal India" in *IESHR*, I (1964), 1-23). However, it appears that matters were settled in such a way as to provide protection to both.
60. *Mughal and Sikh Rulers and Vaishnavs of Pindori*, ed. Goswami and Grewal, Doc. 1.
61. *Ibid.*
62. Bilgaam Document 3.
63. Allahabad Documents 332, 423, 442, 444.
64. Calender of Oriental Records (*CRO* Allahabad), Vol. I, Nos. 294, 96.
65. I.O. Ms. 4720 quoted in *The Bylanes of History : Some Persian Documents*, ed. Grewal, p. 8.
66. Allahabad Document 332.
67. Bilgram Document 60. cf. In an earlier document of 1611 A.D. it is stated, among other things, that the owners of certain rights over a village had mortgaged it with Bannu Baqqal (*bania*) of village Adai Turk and then redeemed it before selling it (Sharaif-i-Usmeni) Document 4, quoted by Irfan Habib "Agrarian Relations ...." in *IESHR* (1967)
68. Allahabad Document 314. A similar document of 1135 A.H. bears the seal of Qazi Alijat and Qazi Muhammad (*Ibid* 18).

69. *Faramin-i-Salatin*, Doc. 90, p. 131. It appears income from octroi was customarily recognized. Aurangzeb had given orders for the remission of *rahdari* (tolls) which was collected on every highway (*guzar*), frontier and ferry and which brought in a large sum of revenue to the *jagirdars*. Khafi Khan informs us that the imperial prohibition against imposition of such taxes proved ineffective (*Muntakhab-ul-Lubab*, ii, 88-9); also see *Selected Documents of Aurangzeb's Reign*, p. 41.
70. Wahed Husain, *Administration of Justice*, p. 100; P. Saran, *Provincial Government of the Mughals*, p. 362.
71. Aurangzeb's *farman* to Muhd. Hashim, diwan of suba Gujarat in 1079/1669 in *mirat-i-Ahmadi*, i, 768-72; *Kalimat-i-Taiyibat*, Inayatullah, f. 110 b. However, in practice we do not find any such distinction or separate existence of lands in the land revenue documents. It was clear that *shariat* was not applied in land revenue and hence, the *qazi* was excluded. Even collection of zakat met with failure, *Proceedings IHRC*, 1960. XXV (ii), pp. 37-38 on Inayatnama. As late as in 1745 AD. Muhd. Ala (basing his arguments on Jalauddin Thanesari's *Risala dar baiarazi*) concludes that under the Mughals the land was neither *ushri* nor *kharaji*. These matters are of academic interest only.
72. *Mughal Farmans* K.P. Srivastava (ed.), 1 Doc. XLII dt. 15 Rabi i 34 R.Y.
73. *Mirat-i-Ahmadi*, I, 279-84.
74. *Waqiat-i-Ajmer*, i, 260; *Insha-i-Roshan Kalam*, Bhupat Rai (Ms. Aligarh), f. 3a.
75. *Selected Documents of Aurangzeb's Reign*, dt. 18 Zilhijja 1071/1661, p. 18; *Mughal Farmans*, K.P. Srivastava (ed). 1, Doc. XXXV.

76. Five Persian documents of Aurangzeb's Reign, *PIHC*, 1978, p. 398.
77. *Waqiat-i-Ajmer*, I, 207-208.
78. *Mirat-i-Ahmadi*, I, 279-84.
79. *Mughal Farmans*, K.P. Srivastva (ed.) Doc. XLII.
80. *Bilgram Collection*, Doc. No. 7, 17; *Allahabad Documents* no. 204 dt. 1080/1669, 357. Any document signed by any number of witnesses. In the Sultanate period *mahzarnama* has been usually understood in the limited sense of eminent religious leaders affixing their signatures as token of approval on a document to elect and appoint the ruler. It is also believed that important religious questions were settled through *mahzars* as happened during Firuz Shah Tughluq's reign or in the reign of Akbar when famous *mahzar* of 1579 A.D. was signed by the leading scholars declaring Akbar as the religious head also. Even when prince Akbar joined hands with Rajputs and revolted against Aurangzeb in 1680 A.D. the document comprising charge-sheet against Aurangzeb was prepared in the form of a *mahzar* which, among others, included the signature and seal of *Qazi Khubullah* (*Maasir-i-Alamgiri*, p. 204). The *mahzar* declared deposition of Aurangzeb as lawful and justified prince Akbar's accession to the throne. However, the scope of *mahzar* was not limited to religious to secular, signed by the respectable people of the area. cf. *arzashts* which were sent by any person including officials and semi-officials to the emperor or a prince desiring him or proposing him to take suitable action in a particular situation. By the very nature of their contents *arzashts* have been excluded from the purview of the *mahzars*.
81. Sometimes *amins* appointed for a specified enquiry used to send their reports on the truthfulness or otherwise of a case in

the form of *mahzar* (*Nuskha-i-dilkusha*, Bhim Sen, f. 127b). the custom of *mahzar* became common with the Marathas also, See. V.V.-Gune, *Judicial System of the Marathas* (1600-1800); The *mahzar* document was also called *mahzarnama*.

82. *Siyaq Nama*, Munshi Nand Ram (NKP Lucknow), pp. 86-87; *Selected Documents of Aurangzeb's Reign*, ed. Yusuf Hussain (Hyderabad) A.R. 947, pp. 15-16.
83. *Siyaq Nama*, pp. 86-87; *Mirat-i-Ahmadi (Supplement)* ed. Nawab Ali & C.N. Sedian, pp. 193, 233, 250.
84. *Some Mughal Farmans, Sanads, Parwans, etc.* (1578-1802) K.K. Datta, Patna (1962) p. 31; *Selected Documents of Shahjahan's Reign*, ed. Yusuf Hussain, pp. 189-90.
85. *Nigarnama-i-Munshi*, Munshi Malikzada (Lucknow), p. 122.
86. *Mughal Farmans*, Vol. I, ed. K.P. Srivastava, Document No. XXII.
87. *Ibid.*
88. *Ibid.*, Doc. No. XXV.
89. *Ibid.*
90. *Selected Documents of Aurangzeb's Reign*, dt. 18 Zilhijja 1071/1661, p. 18, also see p. 89.
91. *Ibid.*, dt. 20 Ramzan 1081/1671, pp. 189-90.
92. *Insha-i-Roshan Kalam*, Bhupat Rai, (MS, Aligarh); f. 46.
93. *Mirat-i-Ahmadi*, I, 308.
94. *Ibid.*

95. *Selected Documents of Shahjahan's Reign*, dt. 27 Rabi II 1054/1644 p. 118.
96. *Selected Documents of Aurangzeb's Reign*, dt. 20 Rajab 1098/1676, p. 106.
97. *Farhang-i-Kardani*, Jagat Rai Shujai Saksena (MS. Aligarh) i. 39 b; *Muntakhab-ul-Lubab*, Khafi Khan, ii, 550. cf. Sometimes cesses varied according to locality. We find remission of a long list of taxes, some of which have not been fully explained even till today, in documents relating to *Madad-i-maash*.
98. *Mirat-i-Ahmadi*, I, 259-65.
99. K.K. Datta, *op. cit.* Bas a 242 of Muzaffarpur Collectorate, p. 11 (also see pp. 6, 34, 104 for more examples of this type).
100. *Journal of Pakistan Historical Society*, Vol. VI. Pt. I Jnan Chendra "Alamgir's Patronage of Hindu Temples", pp. 208-13.
101. *Ibid.*
102. *Allahabad Documents*, No. 315, dt. 1061/1651.
103. *Bilgram Collection*, Doc. No. 17 of 1071/1667.
104. *Ibid.*, Doc. No. 7 of 1081/1671.
105. A copy of this document was attested as late as in 1226/1816 by another *qazi* which probably indicates that the successors to the grant might have needed it for some purpose.
106. *Allahabad Documents* No. 7 of 19 Shaban 1081/1671, 315 of 1061/1651, als see Doc. 2, 165, 168, 174, 176, 178; *Bilgram Collections*, Doc. No. 17 of 1077/1687, K.K. Datta *op. cit.*, pp. 15, 17, 57;
107. K.K. Datta *op. cit.*, Basta 627 of Muzaffarpur Collectorate, dt. 27 R.Y./1682, p. 104.

108. *Selected Documents Aurangzeb's Reign*, A.R. 4995, dt. 26 R.Y./1683, pp. 42-43. Women without any means of livelihood including widows and distitutes were in receipt of *madad-i-maash* grants (*Faramin-i-Salatin*, Doc. 20, 31, 172). These grants were sometimes routed through *sadr-i-inas*. The village functionaries sometimes produced documents on behalf of women who could not present themselves at the time of confirmation of grants. (*Faramin-i-Salatin* Doc. 8).
109. *Allahabad Documents* Doc. No. 204 dt. 1080/1669 (Case before Qazi of Gorakhpur). The Qazi could try cases of forcible dispossession from *madad-i-maash* on receipt of complaints to find out the real grantee, also see, M.B. Ahmed, *Administration of Justice in Medieval India* for a case before Qazi of Jaunpur. Such a duty became mandatory in the wake of Aurangzeb's *farman* of 1690 A.D. defining line of succession to the *madad-i-maash*.
110. *Bilgram Colelction Documents* No. 7, 42.
111. *Muntakhab-ul-Lubab*, ii, 250-I.
112. *Allahabad Documents*, No. 48, 357.
113. *Waqiat-i-Ajmer*, 13, 17, 53, 91-2.
114. *Mufid-ul-insha*, ff. 82-86; *Mughal Archives*, ed, Z. Shakeb (Hyderabad) pp. 228, 236.
115. *Muntakhab-ul-Lubab*, ii, 256-258.
116. *Ibid*, ii, 550; *Maasir-ul-Umara*, Shah Nawaz Khan iii, 109-11.
117. Case of imperial Qazi Abdul Wahhab who was deliberately humiliated by Mahabat Khan (*Muntakhab-ul-Lubab*, ii, 215-16); of the clash between suba *qazi* Syed Ali Akbar and the governor supported by Kotwal of Lahore, (*ibid*, ii, 256-8;

*Maasir-i-Alamgiri*, p. 88); of governor of Burhanpur and suba qazi (Mamuri A.T., as quoted by Syed, A.J. *Aurangzeb in Muntakhab-ul-Lubab*, p. 248); of governor of Ajmer's reports against the impudence of the qazi (*Waqait-i-Ajmer*, i, 190) are some of the examples.

118. *Maasir-i-Alamgiri*, p. 204.
119. *Mufid-ul-insha*, ff. 82-6.
120. *Waqiat-i-Ajmer*, ii Rabi Ii 22 R.Y., pp. 207-08.
121. *Ibid.* In spite of Aurangzeb's desire, there was no strict demarcation between ushri and kharaji lands. The land revenue followed the solar calendar and not the lunar calendar due to practical difficulties.
122. *Muntakhab-ul-Lubab*, ii, 270-4.
123. *Mirat-i-Ahmadi*, I 379.
124. *Ibid.*, I, 275, 316, 330.
125. *Waqait-i-Ajmer*, I, 13, 17, 53, 91-92.
126. *Mirat-i-Ahmadi*, I, 379; Fawcett *The English Factories in India*, (New Series), ii, 422.
127. *Mufid-ul-insha*, Lekh Raj Munshi, ff, 82-86; *Mughal Farmans*, K.P. Srivastava (ed.) Doc. XXXV; *Mughal Archives*, Z. Shakeb (ed), *mahzarnama*, 228, p. 326.



## Chapter -7

### Qazi and Allied Functionaries

An integrated study of those actively involved in an institution is imperative to find out its effectiveness. With this object in mind a discussion on the operative part of two minor yet nonetheless important functionaries viz. *mufti* and *muhtasib* has been taken up in detail. While like the *qazi* both these functionaries were recipients of *madad-i-maash* from the office of the *sadr* with their offices basically religious in character, they differed in jurisdiction and stood distinct in relation to the *qazi*.<sup>1</sup> The *mufti* acted in the capacity of a consultant to the *qazi*, at times sitting with him in his court. He basically fulfilled the duty of looking to precedents and used to spend a lot of time in searching them for the guidance of the courts. However, the *qazi* was at liberty to use his own legal faculties and was not bound to follow decisions given by other courts. The *muhtasib* was always on the move generally in the markets without any court. He was expected to be responsible for the moral welfare of the Muslims at the grassroot level. Theoretically he appeared to combine in himself the executive, judicial and police powers. However, such a combination of authorities could be baffling, if put in practice, in the seventeenth century Mughal India. In fact *muhtasib*'s unlimited jurisdiction had long been crippled with the passage of time and revival of the post under Aurangzeb did not result in restoration of his original jurisdiction which once prevailed under the early caliphate.

The *muhtasib* was incompetent to deal with claims which did not result from wrongful acts and secondly, his jurisdiction was restricted to the extent of imperial regulations only. If there was a dispute or denial, the same was to be referred to the *qazi* in his court or at *Kotwali chabutra*.<sup>2</sup> Whenever the *muhtasib* tried to transgress

this position, he was effectively checked by the *kotwal*.<sup>3</sup> The offenders marked by the *muhtasib* for violation of Islamic principles or for irreligious acts including apostasy were usually produced in the *qazi*'s court for trial and punishment. In this respect the *muhtasib* was both a reporter and a prosecutor. However, on two points the *muhtasib*'s jurisdiction theoretically exceeded that of a *qazi* first, the *muhtasib* was entitled to examine into matters within his jurisdiction even in the absence of a specific complaint or the complainant. It was his duty to send reports to the authorities on the question of violation of the *shariat* and imperial regulations and if he could afford he was within his rights to admonish the concerned person on the spot. Secondly, rather than commanding respect the *muhtasib* was feared more because of social disgrace which was linked with anybody caught by the *muhtasib*.

### **Mufti**

References to the *mufti*<sup>4</sup> occur in connection with the imperial court, *qazi*'s court or on occasions when an advice was sought by the ruler on major religious issues. According to Thevenot the *mufti* had 'the inspection over all that concerns the Muhammadan religion'.<sup>5</sup> It is stated that when Aurangzeb held the imperial court, the proceedings were opened in the presence of the *qazis* and the *muftis*.<sup>6</sup> It is also suggested that the *mufti* was attached to every court of the *qazi*<sup>7</sup> and that he gave his opinion on the merit of each case brought in the *qazi*'s court for investigation, trial and judgement. It was salutary for the *qazi* to consult the *mufti* to avoid miscarriage of justice on a point of law.<sup>8</sup> However, in practice, generally we do not find the presence of the *mufti* in the court of the *qazi*. It appears that he was not a regular officer of the court.<sup>9</sup> A few *muftis* were appointed at certain places under the seal of the *sadr-us-sudur* while in most of the cases it appears that anyone who by common agreement was ranked the learned and recognized to be an authority on religious law was called a *mufti*.<sup>10</sup> The *mufti* was a

sort of unofficial referee whose position was based more on public opinion and local arrangement than on any set procedure.<sup>11</sup>

Among the *muftis* appointed with a suitable *madad-i-maash* under the seal and *sanad* of the *sadur-us-sudur* we find one Muhd. Mamjid, son of Shaikh Mohd. Fazalullah who was offered *muftigiri* of Ujjain in the *suba* of Malwa vide *sanad* dated 4 Ramzan 1096/1686.<sup>12</sup> The earlier incumbent to the post was Shaikh Aminuddin at whose death the new *mufti* was appointed.<sup>13</sup> In 44 R.Y. of Aurangzeb we find the *qazi* of Batala having been assisted by Ghulam Muhd., the *mufti*.<sup>14</sup> Muhd. Tahir. Who was a *mufti* of Srinagar, is stated to have opposed the verdict of the local *qazi* in a Sunni-Shia conflict in Srinagar in 1686, mainly at the instigation of governor Ibrahim Khan.<sup>15</sup> Mulla Iwaz Wajih who was appointed imperial *muhtasib* under Aurangzeb was earlier a *mufti* during Shahjahan's period, having been appointed as such in 1640 A.D.<sup>16</sup> Similarly Muhd. Akram, *qazi* of Aurangzeb and imperial *qazi* in 1698 A.D. belonged to the family of the *muftis* of Delhi.<sup>17</sup>

One of the functions of the *mufti* was to assist the *qazi* in deducing conclusions after consulting relevant books on the points referred to him.<sup>18</sup> However, such an assistance does not appear to be mandatory.<sup>19</sup> The *qazi* could exercise his judicial discretion in accepting or rejecting *mufti's* exposition in its application to a given case. The *qazi* was entitled to accept any of the conflicting interpretations made available to him or he may reject all and decide as it appeared just.<sup>20</sup> The *mufti* was therefore a subsidiary or supplementary to the judicial process. Some scholars believe that whenever *qazi's* business became stupendous he was helped by the *mufti*.<sup>21</sup> It is also argued that the *qazi* could not easily ignore *mufti's* advice.<sup>22</sup> We have no evidence to support either of the views.

Since the basic function of the *mufti* was consultative, at times, he was asked to give his opinion on controversial questions

of social and religious life of the Muslims in accordance with the *shariat*. The *fatawas* charging Dara with apostasy,<sup>23</sup> Sarmad with heresy<sup>24</sup> and Syed Raju with innovations<sup>25</sup> were issued by the *muftis* and supported by the *ulama*. Sometime *mufti's* opinion was misused for selfish motives. In his letters Aurangzeb questions the propriety behind a *mufti's fatawa* declaring the sale of today as lawful.<sup>26</sup> He reprimanded his son for following the advice of such a foolish theologian.

The *mufti* being the learned person of the area sometimes affixed his seal on the grievances of the people which were usually forwarded to the authorities in the form of a *mahzar*. In these documents the seal of the *mufti* is placed lower than that of the *qazi*. In a document relating to inheritance deed executed before the *qazi* of Kanauj in 1070/1660 we find the seal of the *mufti* at the end with the year 1068/1657. A document presented by one Sayyid Ahmad before the diwan bears the seal of *Qazi* Sharif Alauddin, Mufti Sayyid and others confirming the grievances of the grantee about encroachment on his *madad-i-maash* land.<sup>27</sup> The *mafti* of Batala affixed his seal below that of the *qazi* on some documents<sup>28</sup> Slightly later we find a number of clerks who copied the decrees of the *qazis* in the *pargana* courts having been officially called as the *muftis*.<sup>29</sup>

### **Muhtasib**

The office of the *muhtasib*, which was primarily connected with the Muslim morality, becomes conspicuous in Aurangzeb's period.<sup>30</sup> The contemporary sources attribute the reactivation<sup>31</sup> of the *muhtasib* to Aurangzeb's attempt to create an ideal state in accordance with Islamic principles.<sup>32</sup> The office of the *muhtasib* was restored in every province, *sarkar*, *pargana* and in important towns. The imperial orders issued in the early part of Aurangzeb's reign made the incumbent an active instrument to enforce the practice of the *shariat* supplemented by imperial directives. It is probably in this context that we find the chroniclers eulogizing the

functioning of the religious dignitary which perhaps reminded them of their glorious past.<sup>33</sup>

According to oriental scholars in the early years of Islam economic activity was supervised by an official nominated by the government with the title *sahib-us-suq* or master of the market, continuing from the Byzantians. Around 700 A.D. the office was fully Islamised and at the same time the sphere of his activities was widened. From supervisor of market he was put in charge of weights, measures, methods of production and quality, sometimes also prices, with a moral and religious duty. The manual compiled for the *muhtasib* the oldest one surviving in Muslim Spain is from 7<sup>th</sup> century.<sup>34</sup> It appears that the care of the *hisba* institution was the top priority attached to certain moral values drinking wine, gambling and taking interest (*riba*) are directly connected with the ancient Arabian standards of morality. In the sphere of penal law, the *Quran* laid down sanctions or transgressions but did not prescribe any penalty. The penalty was, however, determined at a late stage of Islamic law. Thus tendency to impose ethical standards on the Muslims necessitated the appointment of the *muhtasib*. Generally speaking any body could appeal to him to correct a wrong.

The appointment of the *muhtasib* was made by the emperor mostly on the recommendation of *sadr-us-sudur*. The *sanad* of his appointment alongwith the *madad-i-maash* was issued from the *sadr's* office as confirmatory order.<sup>35</sup> Sometimes the appointment letter of the *muhtasib* (*dastka-i-ihtisab*) issued from *sadr's* office mentioned the quantum of cash allowance to be given from the treasury.<sup>36</sup> In case of revenue-free land grants the *muhtasib* was not to be disturbed by the *mutasaddis* and local officials on account of any revenue or tax demand. In accordance with the set procedure for all *madad-i-maash* grantees, the *muhtasib* too had to apply to *sadr-i-juz* confirmation and execution of the grant in his favour. In the

absence of a *sanad* the appointee was to execute an agreement (*muchalka*) to the effect that he would obtain the *sanad* from the office of the *sadr-i-juz* or *sadr-i-sarkar*. Exceptionally, a *muhtasib* appointed in a big city was given a *muhtasib* also.<sup>37</sup> Normally such a *mansab* did not exceed 250 *zat* with the *sawar* rank usual. Sometimes *muhtasibs* in addition to *madad-i-maash*, were also given assistance of a few horse-men from the governor's reserve force to help them execute the imperial regulations on prohibition of law.<sup>38</sup> The imperial *muhtasib* at the court usually held a higher *mansab*. Mulla Iwaz Wahi who had been a *mufti* under Shahjahan was appointed court *muhtasib* by Aurangzeb with a rank of 1000 *zat*/200 *sawar* in lieu of annual stipend (*wazifa*) of Rs. 15,000 sanctioned to him earlier.<sup>39</sup> Mirza Baqir, who was appointed *muhtasib* of the city of Ahmadabad in 1087/1676 received a monthly stipend (*mahyana*) of Rs. 25/- including expenses on community kitchen (*langarkhana*) and Rs. 16/- on account of provision for six horsemen sanctioned, as salary from the state treasury.<sup>40</sup> The *mansab* of a *muhtasib*, Ghiyasuddin, posted in the province of Gujarat was up graded because the provincial governor appreciated his work.<sup>41</sup> Shaikh Bahauddin who held a high *mansab* was appointed *sadr-i-juz* and *muhtasib* of Shikohabad.<sup>42</sup> It is difficult to state as to what he received independently as *muhtasib*. However, imperial regulations governing *madad-i-maash* clearly stipulated that the grantee had a right to hold a *mansab* or any other means of income in addition to the grant given to him as *madad-i-maash*. Sayyid Baqir, the *muhtasib* of Ajmer who had 15 *ahadis* and 20 gunners at his command was directed to make further additions to his contingents so as to ensure effectively the maintenance of Muslim morals.<sup>43</sup>

Apart from imperial and provincial capital cities, the *muhtasibs* were also appointed in areas having considerable Muslim population, port towns and trading centres. In the port-town of Surat, the *sadr*, the *qazi* and the *muhtasib* were regularly appointed in accordance with the earlier precedent.<sup>44</sup> We find the presence of

a *muhtasib* in *pargana* Chaurasi (Cambay) of *suba* Gujarat.<sup>45</sup> In the newly conquered territory of Bijapur, which became a Mughal *suba* in A.D. 1688 as also in the city of Hyderabad, *muhtasibs* were appointed.<sup>46</sup> Occasionally *muhtasibs* were also present in the army. The court acted as such for the royal army on march. There is a reference to one Muhammad Shah, *muhtasib* of army in the Deccan in the last years of Aurangzeb's reign.<sup>47</sup> In the absence of a separate *muhtasib*, the *qazis* and the *sadr-i-suba* of the place were asked to act as such. Sometimes the post was clubbed with that of the *sadr*, the *qazi* or the *kotwal* and a specific mention was made of it in the appointment letter.<sup>48</sup> Shaikh Bahauddin was both *sadr-i-juz* and *muhtasib* of Shikohabad.<sup>49</sup> Occasionally *muhtasib* was given charge of additional duties, viz. those of a *khatib* or a *mutawalli* of a mosque.<sup>50</sup>

There do not appear to be any specific qualifications for the post of a *muhtasib* except that the person concerned should be an orthodox Muslim. He should have cordial relations with the *sadr* and the *qazi*. In an interesting case Mir Murtada Waiz failed to receive his appointment as *muhtasib* because the provincial *qazi* of Gujarat vehemently opposed him.<sup>51</sup> In accordance with the nature of duties assigned, the *muhtasibs* were addressed with suitable respect as Shaikhs, Sayyids or *baast sawab fazilat panah*.<sup>52</sup> A few *muhtasibs* were also well-read or they were theologians and good calligraphists.<sup>53</sup> The imperial *muhtasibs* were generally taken from eminent theologians and pillars of orthodox. They were therefore held in great respect by the common folk, although it is doubtful if the nobility with its lax morals had much regard for this office.

### **Imperial Muhtasibs**

It is perhaps a misnomer to call the imperial *muhtasib* as the chief *muhtasib* because there is no record to support that the imperial *muhtasib* made appointments of any *muhtasibs* in the provinces, *sarkars* or *parganas*. We are also not aware of his direct

or indirect role in the appointment of army *muhtasibs*. On the contrary our records show that even the local *muhtasib* used to send his reports to the imperial *sadr* and very sparingly to the imperial *muhtasib*. The imperial *muhtasib*'s position was definitely higher because he was associated with the royal court and was usually in confidence of the emperor. During Aurangzeb's period the following *muhtasibs* were appointed in the imperial court :

1. *Mulla Iwaz Wajih* (June 1650-October 1663).<sup>54</sup>
2. *Khawaja Qadir* (1663-October 1665).
3. *Muhammad Zahid* (October 1665-1668).<sup>55</sup>
4. *Qazi Sayyid Husain Jaunpuri* (1668-March 1670).<sup>56</sup>
5. *Sayyid Amjad Khan* (1670-1707).<sup>57</sup>

It is evident that the family ties or hereditary claims did not matter much in the appointment of the court *muhtasibs*, although these appointments were confined to the orthodox favourite theologians.

### **Provincial and Local Muhtasibs**

There is neither a comprehensive list nor a systematic account of provincial and local *muhtasibs*. From the meager details it is difficult to work out the chronological order of the *muhtasibs* in any particular area. However, a few appointments emerge through the scattered references culled from the source-material. From these appointments it is inferred that the provincial capital cities were invariably provided with a *muhtasib* who in addition to *madad-i-maash* also received assistance of a few horsemen and that this same practice was applied to the new areas brought under Mughals' control.

### **Duties**



The general duties of the *muhtasibs* at all levels were to regulate the lives of the people strictly in accordance with the Holy Law. He was to check the innovations, atheism and heresy.<sup>58</sup> The *muhtasibs* could compel the people to obey the theologians and observe the fasts and prayers regularly. He was the enforcer of the imperial regulations against drinking, music and incorrect weights. He also sent reports about illegal deeds of individuals to the authorities.

The official manuals, *Nigarnama-i-Munshi* and *iSiyaqnama* attribute the following major duties to a town *muhtasib*<sup>59</sup> (a) to warn and forbid people against drinking (*arbab khumur was muskirat*), (b) to fix market rates of commodities (*nirakhnavisi*), (c) to check incorrect weights and measures and to bring defaulters to the *kotwali chabutra* for trial.<sup>60</sup> It was also made obligatory for the people to obey the orders of the *muhtasib* given in the performance of these duties. However, Jadunath Sarkar's list of duties attached to the *muhtasib*<sup>61</sup> appears to be a mere theoretical account as this is not supported by the factual position prevailing in that period. There is perhaps no reference municipal duties enumerated therein. Similarly, it is difficult to agree with some oriental scholars that the *muhtasib* female litigants in the *qazi's* court in order to ensure fair justice or that he demolished unauthorized constructions in the streets or near the mosque in the city.<sup>62</sup> However, generally, among the duties assigned, the *muhtasib* was particularly concerned with enforcing imperial regulations against drinking, music and checking of incorrect weights and measures for which imperial regulations were issued in a systematic manner for the first time.

### **Drinking<sup>68</sup>**

Aurangzeb issued a *faman* in 1078/1667 prohibiting people from drinking and for closing the taverns throughout the emerging.<sup>64</sup> The *muhtasibs* were entrusted with the task of enforcing prohibition. Both Khafi Khan and Kazim notice Aurangzeb's

strictness in this regard.<sup>65</sup> Intoxicants were banned for sale and pots and pans in which the beverage was prepared were reported to have been broken by the *muhtasibs*.<sup>66</sup> The oftender was either whipped or imprisoned by the *qazi* on a report from the *muhtasib* till such time that he repented of his misconduct. Many European travelers too confirm the strictness of measures adopted to enforce prohibition.<sup>67</sup> The governors were ordered to assist the *muhtasib* in the enforcement of imperial regulations in their provinces.<sup>68</sup> During his stay at Masulipatnam European agent, Norris, state that the *kotwal* of the place was so enthusiastic that he imposed a fine of Rs. 10/- on any person who disobeyed the order on prohibition.<sup>69</sup>

A few reports on wine-selling and wine-drinking in the camps, bazaars, houses of nobles and among the garrisons of the forts were sent to the imperial court by the *muhtasib*.<sup>70</sup> However, since drinking was the order of the day, almost all the *mansabdars* were in the habit of holding frequent parties which encouraged its use. The fact is certified by the English agent, Hedge, who visited Dacca in 1682.<sup>71</sup> The English governor of Madras presented wine to Nusrat Jang in 1698 and to his successor Daud Khan in November 1706. Muhammad Amin Khan, governor of Gurjarat, was reported to have held court while intoxicated with wine.<sup>72</sup> Muhammad Fazil, *muhtasib* of Ranthambore, was reported to have destroyed all vessels full of wine along with such empty vessels as were used for wine. Man Singh Rathor and many others were degraded for drinking alcohol.<sup>73</sup> These reports show that the Hindu *mansabdars* were also covered under imperial regulations concerning prohibition. This shows orthodoxy implied compliance with the wishes of the ruler, whether strictly based on with the wishes of the ruler, whether strictly based on religious norms or not. In 1683 the army of Khan-i-Jahan was reported by the *muhtasib* to have indulged in drinking.<sup>74</sup> A newswriter sent a report against a Punjabi sawar who was found drunk at the tomb of Saint Gesudaraz. He was ordered to be brought in chains before the imperial presence.<sup>75</sup> On

receipt of a report, on Ziyauddin *kotwal* was dismissed from service for indulging in drinking. He repented before the *qazi*, and on the basis of attestation by the *qazi*, the *bakhshi-al-mulk* recommended his case for reinstatement.<sup>76</sup> When Khwaja Muhammad, *darogha-i-buyutat*, was reported to have been indulging in drinks, music and other acts, Aurangzeb ordered reduction in his rank.<sup>77</sup> Aurangzeb gave the mild punishment only after the accused had signed an agreement (*muchalka*) for not repeating the offence in future. Aurangzeb censured Prince Azam in one of his letters for drinking toddy.<sup>78</sup> Manucci while attesting the fact that there were very few who did not drink involves a *qazi-ul-quzzat* also, in whom Aurangzeb had full confidence, for drinking Manucci's wine secretly.<sup>79</sup> This may not sound very true yet it is a fact that some princes, although under constant surveillance, used to drink secretly. Giving scope to exaggeration in travelers accounts the instances given above clearly indicate that drinking was so much a common affair that it was practically impossible for the *muhtasib* to enforce complete prohibition. At times the *muhtasib* was made a butt and an object of ridicule by the upper class.<sup>80</sup> Interestingly, there were challenging individuals also. Jafat Khan who had been imperial *wazir* for seven years (1663-70) was publicly known to drink. On Aurangzeb's admonishing him he quipped that drinks gave him all the strength he needed to serve the emperor and the empire.<sup>81</sup>

Although Aurangzeb showed strictness and penalized those who drank on the basis of reports from the *muhtasib* and even went to the extent to confiscating such books as encouraged drinking<sup>82</sup> yet he virtually failed to keep the Mughal aristocracy away from drink. The *muhtasib's* activities coming after a long tradition of luxury and drinking parties, might have irritated the people. Even the religious officer might have found himself in an embarrassing situation because for all practical purposes he lacked the original power of punishment and was quite aware of this position. In cities

he was under the overall control of the *kotwal*. The *muhtasib*'s duty to warn and forbid people from drink remained more or less a formality and was confined to reports to the higher authorities who sometimes pursued the cases for an outward show of implementing imperial regulations on Islamic ideals.

## Music

As a logical corollary to maintain public morals through the office of the *muhtasib*, Aurangzeb forbade music at court as also public musical parties by an Imperial *faman* issued in 1078/1667.<sup>84</sup> Religious music, including that on the day of Prophet's birth (*milad-ul-Nabi*), was reportedly discouraged, as any kind of musical gathering was considered against the strict tenets of Islam. Court musicians (*kalanwatan*) and singers (*qawwals*) were ordered to desist from music.<sup>85</sup> The *muhtasibs* were entrusted with the task of putting the imperial regulations into practice.<sup>86</sup> The famous incident of musicians taking out the coffin of music with lamentation for burial evoked Aurangzeb's report that the dead should be buried deep lest it moved from the grave and pretended to sing.<sup>87</sup> This has led some scholars to believe that a complete ban on music was imposed during the period of Aurangzeb and that by dismissing all the court musicians Aurangzeb showed condemnation of this art. However, such an assessment seems to be exaggerated and needs modification in the light of certain facts.

It is well known that in the first few years of his reign Aurangzeb occasionally listened to music and had probably a good knowledge of the art.<sup>88</sup> Till 4 RY musicians continued to take part in court festivities and other ceremonies.<sup>89</sup> Once when Mirza Mukarram Khan Safavi, an expert in musical art, asked Aurangzeb about his views on music, the emperor answered in Arabic. "It is *mubah*, neither good nor bad" but added that he could not listen to music without flutes (*bemazamir*), especially, pakhawaj. Since these are prohibited, he had given up hearing vocal music also.<sup>90</sup> This

incidence shows that Aurangzeb secretly sympathized with music. The emperor is reported to have admitted that without *mridang* he could not enjoy music and since the *ulama* were opposed to it, he should not like it.<sup>91</sup> In spite of the imperial *farman* discouraging music, Aurangzeb gave revenue-free grants and stipends as *madad-i-maash* to those musicians who became penitent. A few such grants given to Hindu musicians, viz. Mohan, Lakshman, Madan, Khamand, Kaliyan, have been located in the *suba* of Bihar.<sup>92</sup> Similarly, a *sanad* of 16 Shawwal 17 RY 7-1-1675 reaffirmed the previous *sanad* of Shahjahan's period by which a revenue-free grant of a full village of Bhaula in *pargana* Mehasi was released in favour of a musician, Taj Muhammad son of Khoran as *madad-i-maash*.<sup>93</sup> It is also stated that at a slightly later date Aurangzeb conferred *mansabs* on some of the musicians who could switch over to other professions.<sup>94</sup>

During the period under review it was customary to play music at the *khanqahs* of the *sufis*. It was perhaps difficult for the government to displease the *sufis* who because of their secluded, ascetic living and support from the common folk, could create problems for the emperor if they were disturbed. 'Ali Muhammad Khan refers to a serious clash between *muhtasib* Mirza Baqir of Ahmedabad and the *sufi* saint Miyan Shaikh Muinuddin Abu Yusuf Yahya (1602-89) over the question of playing music.<sup>95</sup> *Muhtasib* Mirza Baqir, in accordance with the imperial decree, could suppress musical assemblies in the city of Ahmedabad yet he failed to prevent the *sufi* from playing ecstatic songs. The *muhtasib* as a last resort, tried to use coercive measures.<sup>96</sup> The incident when reported to the emperor by the *sufi* Shaikh resulted in the issue of imperial orders to the governor of Gujarat, *diwan-i-suba* and *qazi-i-suba* to censure the concerned *muhtasib*.<sup>97</sup> The imperial action indicates the grave dilemma in which the *muhtasib* might have seen himself. It also indicates and confirms the half-hearted attitude of the emperor towards discouraging music which was for long patronized by his

predecessors. Khafi Khan states elsewhere that the suppression of music by the *muhtasibs* could not continue long.<sup>98</sup> In fact the *muhtasibs* were so much frustrated on this issue that once a *muhtasib* virtually refused to take action against playing the music which finally provoked a bigot theologian to forcibly put down music in the street himself.<sup>99</sup> Another theologian was so much upset by the prevalence of musical services at the tombs of the saints that he sent a complaint for their instant suppression.<sup>100</sup> But hardly any action appears to have been taken on his complaint. Thus the imperial orders banning music were possibly neither taken up seriously nor enforced by the *muhtasibs* strictly, partly due to ambivalent attitude of the emperor himself towards this art and partly due to opposition from the *sufis* and the nobles. However, a positive result of discouraging the playing of music was that the issue became debatable among the theologians and some of them wrote treatises on this subject during the period.<sup>101</sup>

## Usury

In accordance with the Muslim ideals one of the original duties usually assigned to the *muhtasib* was to check the habit of usury (*riba*, *sud*) among the Muslims, as giving and taking of interest is rigorously forbidden under the *shariat*. However, in the medieval period while there are numerous references to the prevalence of usury both in urban and rural society,<sup>102</sup> there is perhaps not a single direct reference to any attempt having been made to ban usury or substitute it in any other form for the common people. The *muhtasib* does not seem to have been assigned any duty of this type nor was any imperial regulation issue in this regard. However, Manucci vaguely refers that sometimes soldiers signed on *sarrafs* papers for one hundred rupees and received only 20/- or 25/-. It is also stated that *sarrafs* were in league with the officers who shared profit from interest (*sud*) charged by the former.<sup>103</sup> It appears that the practice of usury was common among the Mughal

nobility as is clear from Shaista Khan's loan to the *faujdar* of Hugli at an exorbitant rate of interest. The English traders borrowed money both from the Hindu and Muslim merchants at some interest.<sup>104</sup> Even the Mughal government had instated a separate department known as *diwan-i-musadaat* which helped the nobles to tide over their financial difficulties through loans at lesser rate of interest. The references tend to suggest that the Mughal government had accepted the *de facto* position of following the local customs of the country and that the enforcement of the *shariati* against usury was avoided.

### **Muhtasib as Nirkhnavis**

The *muhtasib* was also expected to fix market rates of commodities wherever directed<sup>105</sup> to check incorrect weights and measures and to bring the defaulters to the *kotwali chabutra*.<sup>106</sup> Where there was no separate *muhtasib*, the local qazi or *kotwal* regulated all matters concerning fixation of price rates in the bazaar. The *kotwal* sent price reports to the authorities under the seal of the *qazi* or the *muhtasib*.<sup>107</sup> The *muhtasib* maintained a register (*avaraja*) for keeping a daily list of prices.<sup>108</sup> The author of *Siyaqnama* refers to commodity register and maintenance of *roznamcha* as an important duty of the *muhtasib*.<sup>109</sup> There are references to fixation of market rates, both of buying and selling, by the *darogha* or the *qiladar* some time in consultation with the *muhtasib*. A *waqaya* of 1<sup>st</sup> Shawwal 1071/1661 refers to a *siyaha* (register) for the market rate of Aurangabad city prepared under the supervision of *darogha* Mir Abul Qasim in consultation with Shaikh Muhammad Said, the *muhtasib*.<sup>110</sup> The *siyaha* touches many commodities ranging from gold and silver to gram and salt. However, there does not appear to be any strict rule that the *muhtasib* must be consulted in fixing prices. Officers in Daulatabad, Ramgir and the fort of Fathabad Dhrur in Deccan fixed the rates themselves.<sup>111</sup>

As a censor of public morals the *muhtasib* was concerned more with the detection of fraudulent activities in trade, viz. charging higher price or weighing with short measures. According to a news report, the city *muhtasib* ordered replacement of under-weight copper coins by the genuine ones in Jodhpur.<sup>112</sup> Weights of commodities from traders or sellers were also checked by him. A report from Ranthambore refers to a clash between a *muhtasib* and a *kotwal* over the detention of milk vendor by the *muhtasib* on the charge of short weight.<sup>113</sup> On petition from the milk vendor's wife, the accused was released by the *kotwal*.<sup>114</sup> The latter also remarked that the concerned *muhtasib* was corrupt and unnecessarily harassed innocent people on one pretext or the other. The references, while supporting the view that the *muhtasib* examined the accuracy of weights and measures, also indicate that he was virtually under the control of the *kotwal*. He was not authorized to imprison any person while supervising the market without the permission of the *kotwal*. Rather he was to bring the defaulters in weights and measures in the court for trial. From the evidence available with us it may be safely concluded that the *muhtasib*'s primary duty was to send reports to the imperial court or *sadr-i-kul* or governor of the province on violation of imperial regulations concerning morality. Although theoretically the officer was concerned with the Muslim morals only, yet contemporary sources reveal that non-Muslim officers holding *mansab* were also covered in respect of certain regulations which shows the obedience to imperial orders whether based on *shariat* or not. Sometimes the *muhtasib* was also entrusted with the duty of conducting enquiries on specific matters and sending the report to the *sadr*.<sup>115</sup> In a situation where the force of local customs and uncompromising attitude of the elite class prevailed reporting was perhaps the best alternative to keep the court informed of people's reaction to acts falling under *muhtasib*'s jurisdiction. Such a method also prevented direct clashes with the officers and avoided public protest on a large scale. Among the various scattered reports mention can be made of a report sent by the *muhtasib* that the



Mughal nobles, viz. Raja Bhim Singh of Banera and Kishan Singh, while serving in the Deccan in 1692, made arrangements for celebration of *Holi*.<sup>116</sup> The *muhtasib* added in his report that he tried to stop the celebration but since the officers held high *mansabs* he was helpless to do anything.<sup>117</sup> Aurangzeb ordered the celebrations to be stopped. It is on the basis of such reports that sometimes more soldiers were placed at the command of the *muhtasib*'s jurisdiction, he became the public prosecutor also. We find some cases having been instituted by the *muhtasib*. It seems that the *muhtasib* brought the accused in *qazi*'s court (*adalat*) for grave religious offences, and for minor offences he approached the *kotwali chabutra* within the area of his appointment. It is believed that the proceedings against Sarmad, the famous *sufi* poet, were initiated in the *qazi*'s court at the instance of the city *muhtasib* who initiated in the *qazi*'s court at the instance of the city *muhtasib* who reported his activities.<sup>119</sup> A batch of Muslim theologians sat in judgement over Sarmad, proved him guilty and finally passed orders for his execution in 1661.<sup>120</sup>

The author of *maasir-i-Alamgiri* states that under Aurangzeb imperial regulations on hisba jurisdiction were issued in a systematic manner and that reactivation of the *muhtasibs* yielded-desired results and that the work of the *muhtasib* was carried out to the full among the general public both high and low.<sup>121</sup> A few other contemporary historians too appreciate the work done by the court *muhtasibs*, especially Mulla 'Iwaz Wahij, whom they considered the embodiment of religious scholarship and a strict enforcer of Islamic ideals among the Muslims.<sup>122</sup> These statements seem to have been exaggerated and are probably filled with religious fervour. Looking at the morals of the age it was almost impossible for the *muhtasib* to enforce either strict ideals of *shariat* or imperial regulations concerning observance of moral rules. The presence of the *kotwal* overshadowed the strictly religious position of the *muhtasib* because it was through the *kotwal* that anti-religious activities viz. drinking

bouts, gambling dens, prostitution and short weights, could be known. The nobility was, undoubtedly, loose in habits and given to luxury. Local customs prevented the strict enforcement of *shariat* principles, particularly against usury and music. In the light of these facts Aurangzeb's regulations to reactivate the defunct office of the *muhtasib* for the Muslims to bring them close to Islamic standards failed to produce the desired results. The office neither led to better morality nor could it help in systematization of trade and commerce because the latter was following its own course without any state help. It is also difficult to say that the office created any ideological crisis in the elite section or feudal set-up. Thus *muhtasib* retained his original title without any original power of summary punishment in cases of blasphemy, omission of prayer, missing of fast, etc. At best his overall position was that of a reporter who usually acted under specific orders of the higher officers. The respect shown in our chronicles for Mulla iIwaz Wajih was perhaps more in the capacity of a learned scholar in whom Aurangzeb had reposed confidence than in the capacity of a censor of public morals which post he held only for four years (1659-63). The office of the *muhtasib* had probably become time-barred and failed to win much respect from the people, although it opened up a still another avenue for additional reports to the authorities.

## References

1. Cf. Amedroz H.F., "Hisba Jurisdiction", JRAS of Great Britain and Ireland (1916), pp. 77-101.
2. *Waqiat-i-Ajmer*, I, 190; *Nigarnama-i-Munshi*, p. 142.
3. *Siyad Nama*, p. 89; *Waqiat-i-Ajmer*, I, 190.
4. A person competent to give *fatwa* or legal opinion, *Muslim Institutions*, G. Demombynes, p. 153; *Encyclopaedia of Islam*, ii, 92; for the origin of the office, see *A History of Islamic Law*, N.J. Coulson, p.p. 142-143. The *mufti* was not legally

recognized in the Muslim khilafts, *Orient under the Caliphs*, Von Kremer, tr. Khuda Baksh, p. 284.

5. *Indian Travels of Thevenot & Careri*, ed. S.N. Sen, p. 26.
6. *Alamgirnama*, p. 1077; Bernier, *Travles*, p. 263; *Storia*, ii, 419 adding that the *muftis* acted as judges.
7. Wahed Husain, op. cit., pp. 166-7.
8. The *mufti* gave his opinion on the merit of a case, Sarkar, *Mughal Administration*, p. 207; *Chronicles of Oonao*, pp. 114-6.
9. In Bilgram Collection only two documents of this period bear the seal of the *mufti*. One document at 1068/1658 relates to inheritance while the other is a *mohzarnama* dt. 1077/1666. Similarly Allahabad Documents of our period do not illustrate *muftis* role. Quite likely there was no regular *mufti* in the *pargana* courts. Cf. *Proceedings, IHRC*, xii (1929), Deshpandi "Revenue Admin. Of Berar.....Aurangzeb", pp. 83-4.
10. The *mufti* should train himself during his leisure hours by copying learned legal decisions and discussions of judicial principles from authoritative text books (*Hidayat-ul-Qawaid*).
11. P. Saran, op. cit., p. 346.
12. *Faramin-i-Salatin*, Doc. 65.
13. *Ibid.*
14. I.O. 4720 (64) quoted in *The Bylanes of History : Some Persian Documents*, Grewal, p. 8. cf. Such an assistance does not appear to be compulsory (Ibn Hasan, op. cit., p. 314).
15. Azami, f. 131b-132b as quoted by Sarkar, *History of Aurangzeb*, V, 422.

16. *Muntakhab-ul-Lubab*, ii, 80.
17. *Maasir-i-Alamgiri*, pp. 240, 392.
18. *Faramin-i-Salatin*, Doc. 65.
19. Ibn Hasan, op. cit., p. 314.
20. *Fatwa-i-Alamgiri*, iii, 383; Siddiqi Z., "Institution of the Qazi", *Medieval India Miscellany*, i, 14.
21. Sarkar, *Mughal Administration*, p. 97.
22. M.B. Ahmad, op. cit., p. 178.
23. *Muntakhab-ul-Lubab*, ii, 85-6.
24. *Maasir-i-Alamgiri*, p. 77; *Waqiat-i-Alamgiri*, ed. with summary, Zafar Hasan, p. 46.
25. *Mirat-i-Ahmadi (Supplement)*, pp. 70-3.
26. *Ruqaat-i-Alamgiri*, Letter No. XC.
27. *Ibid.*
28. *Local and Regional History*, J.S. Grewal p.6.
29. *Mirat-i-Ahmadi*, iii, 722; cf. It seems that in the 18<sup>th</sup> century *muftis* were gradually in the higher courts. The *qazi* amalgamated the functions of the *mufti* and discharged all the disputes himself without *mufti*'s assistance. Also Wilson, *Glossary of Judicial and Revenue Terms*, p. 349.
30. The word *muhtasib* derives its roots in *hisba* which means an act of counting. See *Cambridge History of Islam*, vol. ii, wherein the origin of the office of the *muhtasib* has been linked with a Greek officer, *agornomos*, who was popular in the Byzantine empire (pp. 496, 549 & 577). For the relationship between *agornomos* and *muhtasib*, see Benjamin

R.Foster's article on the subject in *Journal of Economic and Social History of the Orient* (Leiden, 1971), xiii, pp. 128-44.

It is wrong

31. Although the Mughal chroniclers are usually silent on the question of *ihtisab* yet a few scattered references prior to Aurangzeb's period suggest that *muhtasib*'s functions were mostly carried out by the *kotwal* and the *qazi* (Badauni, *Muntakhab-ut-Tawarikh* (tr.) Haig, iii, p. 163). Also see farman of Akbar dt. 7 Ramadan 977/1570 relating at appointment of Qazi Muhammad as the *qazi khatib, imam an muhtasib* of *pargana* Khairabad, quoted in Iqbal Husain "A Calender of Khairabad Documents (16<sup>th</sup>-19<sup>th</sup> Centuries)" *Islamnic Culture* (Jan. 79), p. 49; (April, 79), p. 89.
32. Ali, Muhammad Khan, *Mirat-i-Ahmadi*, Baroda, I, p. 249-51.
33. The office of the *muhtasib* was inherent in Muslim religious structure. The officer commanded respect from the Caliphate and fear among the people for maintenance of Muslim morality. During the Delhi sultanate the institution of *ihtisab* gained unprecedented prestage in the time of Alauddin Khalji due to certain measures against drinking, prostitution, etc. Ziauddin Sunami's *Nisab-ul-ihit isab* was a popular book on the position of the *muhtasib*.
34. Classical Islam, G.E. Non grunebaum, London, 1970, pp. 100-101. Also see, "*Al-Hisbah in Muslim Spain*", S.M. Imamuddin in *Islamic Culture*, vol XXXVII (1963), pp. 25-29.
35. Munshi Malikzada, *Nigarnama-i-Munshi*, Lucknow, p. 106.
36. *Ibid.*, p . 148.
37. *Mirat-i-Ahmadi*, I, pp. 291 & 329.
38. *Ibid.*, pp. 249-50 & 329; *Farman-i-Salatin*, ed. Bashiruddin Ahmad, Delhi, 1916, p. 155.
39. Khafi Khan, *Muntakhab-ul-Lubab*, Calcutta, 1874, vol. ii. P. 80.

40. *Mirat-i-Ahmadi*, i, p. 291.
41. *Ibid.*
42. Shah Nawab Khan, *maasir-ul-Umara*, Calcutta (1888-91), I, pp. 363-65.
43. *Waqiat-i-Ajmer*(transcript Aligarh), I, p. 282.
44. *Mirat-i-Ahmadi* (Supplement), pp. 193 & 223.
45. *Ibid.*, p. 193.
46. *Muntakhab-ul-Lubab*, ii, p. 358.
47. Newsletter dated 2-1-1705, quoted by S.R. Sharma, *Religious Policy of the Mughals* (1962), pp. 137-8.
48. *Maasir-ul-Umara*, i, p. 240; *Proceedings I.H.R.C.*, xxxii, (1956), Pt. II, N.B. Roy "A Mughal Farman of Aurangzeb," pp. 33-6.
49. *Maasir-ul-Umara*, I, pp. 363-5.
50. At a slightly later period we find the appointment of Barzaullah as *muhtasib* and *khatib* of *pargana* Sonapat, *sarkar* and *suba* Shahjahanabad, *Faramin-i-Salatin*, Document No. 109, dt. 1162/1747.
51. *Muntakhab-ul-Lubab*, ii, p. 564.
52. *Baqiyat-i-Salihat*, as quoted by M.B. Ahmad, *Administration of Justice in Medieval India*, p. 167.
53. Inscription dt. 1104/1693 cited by Bhendrey, *A Study of muslim Inscriptions*, p. 174.
54. For someone *muhtasib* in Aurangzeb's army he was subsequently elevated to the post of imperial *muhtasib* with a rank of 1000/200 (*Muntakhab-ul-Lubab*, ii, p. 80; Saqi Mustaid Khan *Maasir-i-Alamgiri*, (Calcutta, p. 25). He was very rigid and put down any bold sinner in a harsh manner (*Mirat-*

*i-Ahmadi*, I, pp. 249-50). After retirement he spent his time in teaching (Bakhtawar Khan, *Mirat-i-Alam*, ed. S. Alvi (Lahore) 456-457a).

55. He was the son of Qazi Muhammad Aslam who was for sometime teacher of Aurangzeb (*maasir-i-Alamgiri*, p. 51).
56. Before becoming imperial *muhtasib* he was associated with compilation of *Fatawa-i-Alamgiri*. Being a learned scholar his recommendations were usually respected by Aurangzeb. (*maasir-i-Alamgiri*, p. 94).
57. Like Mulla 'Iwaz Wajih he also believed in putting down un-Islamic practices with a heavy hand. Once he incurred the anger of the Rajput *mansabdars* during such operations. After Aurangzeb's death the indulged in party politics by pleading the cause of Prince Bahadur Shah to the throne in the war of succession. See Satish Chandra, *Parties and Politics at the Mughal Court*, p. 103; Malik, *Reign of Muhammad Shah*, p. 11.
58. *Maasir-i-Alamgiri*, pp. 80-81.
59. *Nigarnama-i-Munshi*, p. 148; *Siyaqnama*, pp. 89-90.
60. *Nigarnama-i-Munshi*, loc cit.
61. Jadunath Sarkar, *Mughal Administration*, Calcutta, pp. 25-26.
62. I.H. Quraishi, *Mughal Government*, Karachi, pp. 199-202. Cf. *J.R.A.S. of Great Britain and Ireland* (1910), p. 635; (1911), p. 761; (1916), pp. 77-101, 287-314 on Hisba jurisdiction by M.F. Amedroz.
63. In the Muslim social life campaign against drinking has been a common theme. See *Encyclopaedia of Islam*, ii, 181. Akbar had made an attempt to stop all traffic in spirituous liquors, except when it was used for medical purpose or advancement of science.
64. *Muntakhab-ul-Lubab*, ii, p. 13.
65. *Ibid.*, '*Alamgirnama*', pp. 391-2.
66. *Storia du Mogor*, ii, p. 57.

67. Benier, *Travels* (tr. Constable), p. 253; Ovington, *A Voyage to Surat*, p. 296.
68. *Mirat-i-Ahmadi*, I, p. 281.
69. *The Norris Embassy to Aurangzeb* (1699-1702), ed. H.H. Das, p. 149.
70. *Muntakhab-ul-Lubab*, ii, p. 220; *Selected Documents of Aurangzeb's Reign*, p. 106.
71. Hedge, *Diary*, i, p. 56.
72. *Maasir-i-Alamgiri*, p. 115.
73. Newsletter dt. 6<sup>th</sup> May 1702 as cited in S.R. Sharma, *Religious Policy of the Mughals*, p. 129.
74. *Muntakhab-ul-Lubab*, ii, p. 220.
75. *Ruqaat-i-Alamgiri*, tr. Bilimoria, Letter No. XXVII.
76. *Selected Documents of Aurangzeb's Reign*, dt. 20 Rajab 1087/1676, p. 106.
77. *Ibid*, A.R. 933, dt. 10 Safar 1097/1685, p. 162.
78. *Ruqaat-i-Alamgiri*, Letter No. XC.
79. *Storia*, ii, p. 5-5.
80. A tradition which continues till today in day-t-day talk.
81. *Storia*, iii, p. 157.
82. S.R. Sharma, *op. cit.*, p. 130. *Diwan-i-Hafiz* was prescribed. Hafiz was satirical of *muhtasib's* activities. When Prince of Shiraf prohibited drinking in late 14<sup>th</sup> century Hafiz remarked; If they (administrators) here closed taverns for king's sake, they will open them for God's sake : In the present age Iqbal used to blame Hafiz for degeneration of Muslim morals.
83. *Waqiat-i-Ajmer*, i, p. 190.



84. *Muntakhab-ul-Lubab*, ii, p. 213. According to Saqi Mustaid Khan, prohibition of music was enforced in 1075/1665 (*maasir-i-Alamgiri*, p. 71).
85. *Muntakhab-ul-Lubab*, ii, p. 213.
86. *Ibid.*
87. *Ibid.*, pp. 212-13; *maasir-i-Alamgiri*, p. 71.
88. *Maasir-i-Alamgiri*, p. 527.
89. *Muntakhab-ul-Lubab*, ii, p. 125.
90. *Maasir-i-Alamgiri*, loc. Cit.
91. Sajida Alvi refers to this in her article on, 'Historians of Aurangzeb' in *Essays on Islamic Civilization*, Leiden, 1976, pp. 72-73, citing *Mirat-i-Alam* as the authority.
92. *Some Mughal Farmans, Sanads, Parwanas, etc.*, (1578-1802), ed. & tr. K.K. Datta, Patna, 1962, pp. 69 & 76.
93. *Ibid.*, p. 29.
94. *Muntakhab-ul-Lubab*, ii, 213.
95. *Mirat-i-Ahmadi*, (Supplement), p. 69. *Mahfil-i-Sama* (original assemblies) was a common scene at the *dargahs*.
96. *Ibid.*
97. *Ibid.*
98. *Muntakhab-ul-Lubab*, loc, cit.
99. *Ibid.*, p. 561.
100. *Ibid.*, p. 564.

101. One of the famous books was *Rag Darpan* written by Faquirullah (Saif Khan) who has once governor of Kashmir. Rieu has noted these books in his supplementary catalogue, p. 114. Such controversy revived again in Avadh during the Nawabship of Asaf-al-Daulah. Cf. During Firuz Shah Tughluq's reign discouraging music led to comfortation for the first time of standard workon music viz. *ghuniyat-ul-muniya* which provides dignity to the art of music.
102. The ruler society was also increasingly associated with the usury due to 'cash nexus' which was slowly emerging from the sale of a claim to agricultural produce, sale and purchase of zamindari rights and selling of products in the market. See *Nigarnama-i-Munshi* on the manual of the *diwan*; also Moreland, *Agrarian System in Medieval India*, pp. 11, 31, 38, & 83; Irfan Habib, "Banking in Mughal India" in *Contribution to Economics History*, vol. i (Calcutta), p. 219; Jain, *Indigenous Banking*, p. 28, etc.
103. *Storia*, ii, 379. In order to avoid the stigma of usury, a "double sale" method was prevalent in contemporary Middle Eastern Muslim societies.
104. *English Factories in India* (1670-77), ed. Fawcett, ii, 428 & 436-37; iii, p. 352.
105. *Nigarnama-i-Munshi*, p. 148.
106. *Mirat-i-Ahmadi*, (Supplement), p. 174.
107. *Selected Waqai of the Deccan*, pp. 93-94 & 130.
108. *Faramin-i-Salatin*, Doc. No. 109; *mirat-i-Ahmadi*, I, p. 309.
109. *Siyaqnama*, p. 89.
110. *Selected Waqai of the Deccan*, p. 32.
111. *Ibid.*, pp. 59, 75 & 108.
112. cf. *mirat-i-Ahmadi*, I, p. 265.

113. *Waqiat-i-Ajmer*, i, 190.
114. *Ibid.*
115. On a complaint from Prince Muhammad Azam against one Sayyid Lal, orders were given that the imperial *sadr* should write to the concerned *muhtasib* to enquire the truth and submit a report. (*Ahkam-i-Alamgiri*, ed. Sarkar as *Anecdotes*, No. 18, pp. 62-63; also *Nigarnama-i-Munshi*, p. 142).
116. S.R. Sharma, *op. cit.*, p. 142.
117. *Ibid.*
118. *Mirat-i-Ahmadi*, I, 261.
119. *Ibid.*, p. 77, Mufti Abdul-al-Qazi who was in close attendance to Aurangzeb was known to be very bigoted and rigorous *muhtasib* (*Maasir-ul-Umara*, I, 225-29). He was responsible for the trial of Sarmad for heresy, as also, for a *fatwa* against a Mahdavi leader Sayyid Raju.
120. According to Aquil Khan Razi, Sarmad was accused of nakedness and perverted *sufi* tendencies.
121. *Maasir-i-Alamgiri*, p. 528.
122. *Mirat-i-Ahmadi*, i, p. 250.
123. Nizami quotes an instance when Aurangzeb was moved by the pathetic condition of the prostitutes against whom he had earlier passed an order that they should either marry or face harsh punishment. The order was subsequently modified (*Mirat*, i, 250). When Ovington was in Surat he found many dancing girls and prostitutes there (*Voyage to Surat*, p. 153).

## Conclusion

Under Aurangzeb the administration of Justice was organized within the framework of a separate department styled as *diwan-i-sadarat* and supervised by the imperial *sadr*. The *sadr* not only provided an institutional link between the theologians and the emperor but also patronized and harmonized all sections of *ulama*. His jurisdiction was primarily confined to the recommendation and supervision of the *madad-i-maash* both in revenue-free land and cash stipends made in favour of religious and judicial office holders as also individuals and institutions. The scope of the *madad-i-maash* remained extended to the Hindus and other non-Muslims also, although a majority of non-Muslims still remained outside the pale of state charity. Theoretically *sadrs* were considered specialists on theology yet in actual practice they were expected to be impartial and good administrators. They were usually offered a high *mansab* in keeping with their prestige and position. Because of ample patronage which the *sadr* enjoyed in relation to all the communities he had developed a fairly liberal outlook in the matter of charities such as establishment of free kitchens and hospitals as also grants to the non-Muslims.

The *sadr* was usually responsible for appointment of the religious and quasi-religious officers including qazis. He wielded a great influence due to his holding the key position to enquire into eligibility and to assess the needs of the deserving recipient for *madad-i-maash*. This was an important aspect because normally *madad-i-maash* continued even after the exit of the person concerned from his office. While the *sadr* could play a significant role in the resumption of undeserving and irregular grants to the state, he was the real prop and stay of the grantees in as much as he protected them from undue harassment by the revenue officials and from forcible dispossession by those in power. The procedure

adopted by the *sadarat* in *madad-i-maash* to the deserving people and religious institutions involved the diwani department which was increasingly associated with such grants especially at the time of giving possession or settling the grantee at the specified place through the *chakbasta*. The revenue-free *madad-i-maash* grants given from partly fallow and partly arable land were mostly defined in bighas, although sometime a few grantees and institutions received a village or a group of villages for subsistence and for other recurring expenditure. The complexity involved in all these grants and the vigilance of the *sadrs* over the recipients including *qazis*, *muftis* and *muhtasibs* prevented the sale, transfer or gifting away of *madad-i-maash* rights at least prior to 1690 A.D. when administrative regulations were issued making grants virtually hereditary.

There is no concrete evidence to show that *madad-i-maash* grants given to the Hindus were resumed any time during this period. The imperial order of 16 RY addressed to the diwanis of the empire was too general in nature and does not seem to have been followed up strictly. Rather certain grants were renewed in favour of the Hindus in the *suba* of Bihar and other areas even after the 16 RY. The existing grants were probably not disturbed. A peculiar feature of the grants to the Hindus was that the area was usually small and at places defined in odd numbers such as 3, 21, 51, bighas probably to show some respect for the Hindu sentiments. However the period of Aurangzeb to *madad-i-maash* grants in accordance with the guidelines specified in the imperial *farman* of 1690 A.D. A close scrutiny of the *farman* has revealed that principles of the *shariat* were subordinated to the administrative regulations in the matter of succession. The imperial order was a step towards hereditary character of the *madad-i-maash* grants which slowly obliterated the distinction between *madad-i-maash* rights and the prevailing *zamindari* rights in the second half of the 18<sup>th</sup> century.

The key-figure of the judicial administration at all levels : imperial, provincial and local was the *qazi* who was recruited from among the theologians and received subsistence grant from the office of the *sadr*. Rarely a few *qazis* were offered *mansabs* also. The *qazi*, therefore, stood distinct but administratively subordinate to the *sadr's* department. The *qazi-ul-quzzat* or imperial *qazi* was basically a *qazi* but carried a higher status in relation to other *qazi* merely because of his association with the imperial court. In addition to deciding disputes himself or assisting the emperor in his court on decision of selected *shariat* cases or those referred to him, his duties were advisory in nature. Contrary to earlier practice of his predecessors Aurangzeb frequently consulted the imperial *qazis* on policy matters having direct or indirect bearing on the *shariat*. The issues ranged from the Mughals' expansionist designs in the Deccan to the religious controversies or irreligious activities of the particular individuals or sects reported to the emperor. It is a strange paradox that the *sadrs* even though head of religious office were not associated with many of the orthodox measures such as discouraging the building of new temples or imposition of *Jizya*. In all such matters it was a section of the theologians including some of the imperial *qazis* whose views were sought or who were associated and taken into confidence by the emperor. The reason for this can be attributed to the *sadrs* emerging more as administrators with broad outlook and usually considered as part of the Mughal nobility by virtue of their holding high *mansabs* while the *qazis* were considered by and large as bulwork or orthodoxy carrying traditional monopoly of interpreting the *shariat*. This does not, however, mean that the theologians played any significant role in formulating state policies. The uniqueness of India's situation with a large component of Hindu population and their customs made the formulation and implementation of *shariat* principles almost a difficult task whether in administration, polity or land revenue system. Aurangzeb's consultations and dependence on the *qazis*, perhaps a little more than any of his Mughal predecessors, was

aimed at showing outward respect for the *shariat* and at the same time keeping in view his political and administrative needs above the religious considerations. This is the reason why the advice of the *qazis* was repeatedly ignored and even rejected. At times orthodox *ulama* and *qazis* misused the confidence posed in them by crying for measures against a particular Muslim sect or cultic, ritual practices at certain Muslim shrines. At times the emperor took his own decisions by avoiding sectarian attitude and preferring the administrative reality with due regard to the Hindus.

It has been seen how inspite of respect for the *qazis*, Aurangzeb ignored their advice on religious issues and even subordinated *shariat* principles to the administrative needs or his own wishes by issuing *zawabit* regulations. He curbed the religio-political prerogative of the imperial *qazi* relating to formal concurrence on his accession to the throne by dismissing the imperial *qazi* who refused to read *khutba* in the emperor's name. *Qazi-ul-quzzat* Shaikh-ul-Islam, who was always held in high esteem by Aurangzeb had to resign in protest when his opinion against invasion of the Deccan kingdoms of Bijapur and Golconda fell flat on the emperor. *Qazi-ul-quzzat* Khwaja Abdullah was also reprimanded for giving a similar unpalatable advice to Aurangzeb on the legality of invading the Deccan. Thus Aurangzeb's approach to the Deccan kingdoms was motivated with an imperial perspective rather than religious considerations. Again there is no evidence to show that the imperial *qazi* was always invariably consulted in matters of taxation. His advice was sought but it was not imperative for the Mughal government to accept. The Mughal land revenue system was not based on the *shariat* and any attempt to impose *shariat* doctrines in preference to local usages was bound to end in failure. It is seen how Aurangzeb was forced to withdraw a tax on purchase, suggested by the imperial *qazi*, because such a practice resulted in the loss of revenue. The *qazi* did not try any land revenue case nor was he authorized to deal in any dispute which

might arise from escheat regulations. Although the *qazis* dispensed Muslim law and heard appeals, they were rarely asked to deal with political cases. A few such cases were, however, deliberately tried in the *qazi's* court probably with secret instructions for elimination of Aurangzeb's enemies on one pretext or the other. The emperor did not hesitate to interfere with the legal decisions of the *qazis* when he found that the latter had taken a stand against his wishes. While there are instances when the imperial *qazis* asserted their stand and left the job yet too often they colluded with those in power. The local *qazis* suppressed the innocent and cordoned injustice by accepting consideration money part from religious zeal, envy and selfish motives sometime played a possible role in *qazis'* attempt for action against parallel groups viz. the Bohra community of Gujarat and popularity of the *sufis* at the grassroot level.

The *qazi* was indirectly associated with *jizya* and *zakat* to the extent that he used to issue certificates for collection of *jizya* and *zakat* as also for religious expenditure from these sources. Such a practice however, did not vest in him any supervisory control over any Mughal treasury. While the motive behind imposition of *jizya* has been a debatable issue, one of the reasons for this can possibly be attributed to meet the situation arising from financial constraints on expenditure for religious charities. It was a paradoxical situation for Aurangzeb to provide charities to the ever increasing number of people and institutions on the one hand and limited, specified income and sometimes stagnating funds on the other. A solution to this particular situation lay in finding out avenues for income without putting extra pressure on the exchequer. In order to comply with the religious needs the *jizya farman* imposing a tax on the zimmi was issued. The collection was partly spent on the new machinery of amins employed for the purpose and primarily for religious charities. The imperial order stipulated that *jizya* collection was to be treated as separate from land-revenue and was to be spent for religious purposes only. In order to keep up the



religious sanctity, *qazis* and *amins* were associated with this measure. However, the rigidity in collection and notorious conduct of some of the *qazis* and *amins* not only negated the increase in income but also led to hostility from the population. There may be other factors and merely economic reason should not be considered as the basis for *jizya* yet the pointer shown by what was happening at the Ajmer *dargah* and discontentment of recipients of charity at the *dargahs* due to paucity of funds offer a fascinating study for further research.

The office of the *qazi* as built up at the local level while depriving him of many original powers adds new secular avenues to his jurisdiction. In addition to religious character of judicial functions, the *qazi* amalgamated in him the functions of a registrar and a reporter also. The evidence overwhelmingly suggests that people had started approaching the *qazi* in matters of sale, transfer, gift and sometimes mortgage of their property, for security of records and attestation of important documents for authenticity. The *qazi* also certified the grievances of the people attested by eminent people of the area in the form of a *mahzar* for onward transmission to the authorities for a suitable action. The *mahzars* were like modern public representations and quite effective in eliciting immediate response from the higher authorities. The *qazi* could report anything concerning himself or the people of his area, although he could not directly interfere with certain affairs. The *qazi* was also associated with attestation of certain documents, mostly agreements, required in the department of the *sadr* and the *bakshi* for record. Thus more and more people including rural folk had started approaching the *qazi*. In fact through his office.

In the capacity of a judge the *qazi* did not interfere in the traditional pattern of village assemblies popularly styled as *caste* or *jati* panchayats. There is perhaps no evidence to support the view that appeals against the panchayat or panchnama went to the *qazi's*

court. At the same time there is not concrete proof to suggest the employment of the pandits in the local *qazi's* court. Apparently *shariat* law as supplemented with local customs was applied in matters of sale and contract and this was the reason why a majority of non-Muslims still avoided going to the *qazi's* court for settlement of their disputes. As the village society comprised of not only village headman, cultivators, professional and artisans but several persons of distinct status enjoying rights and privileges over the land the *qazi's* office offered an opportunity for these people to approach him for their legal and other requirements and it was for them to make use of his office. With the acceptance of hereditary character of religious grants coupled with subsequent weakening of central authority the work of the *qazi* had increased enormously in the eighteenth century.

To facilitate *qazi's* work a digest of existing Muslim laws known as *Fatawa-i-Alamgiri*, based on Hanafi jurisprudence, was compiled which defined, inter *alia*, mode of punishment to be awarded to the convicts. Before this there were neither any clear and definite rules on offences and corresponding punishments nor any definite procedure in judicial administration. Some reforms were also suggested for speedy trial of the prisoners as a part of administrative regulations. However, the *Fatawa* cannot be termed as a step towards development of Islamic law which we find in other Islamic Asian and African countries. The codification did not result in any basic change in the *qazi's* functioning. The guidelines were reference books in nature and rather suggest that the *qazi* was to act by administrative regulations also than clinging to the mere principles of the *shariat*. The judicial procedure did not envisage the need for professional lawyers as understood in the modern sense. Rather wakils were mostly agents representing the ladies in civil including *madad-i-mash* disputes or occasionally giving assistance to the non-Muslims in matters of contract. The trials were

public and we don not find any case decided in camera. The proceedings were simple involving witnesses and reports.

It is also seen that the *qazi* was not the only person dispensing law. In actual practice three types of courts had emerged at the local level. In the absence of a well-defined jurisdiction the *qazi* occasionally clashed with the *faujdar* who also decided disputes while maintaining law and order in the area of his jurisdiction, although for most of the time their relations were cordial. The *qazi* confronted some interference from the *kotwal* also with regard to jurisdiction especially on detention of offenders. In the conflicting attitudes it was rather difficult for the *qazi* to dominate or enforce strict interpretation of the *shariat*.

The three-tier judicial system of the *qazis* was devoid of any strict coordination and demarcation. Every *qazi* possessed the original power of trial of the cases brought before him. It is not known whether an imperial or provincial *qazi* could direct a lower court for transfer of a case. This prerogative lay with the emperor or the governor of a province. The only coordination between them was sought through judicial reports and occasional guidance received by the local *qazi* from his counterpart at the centre or from the office of the *sadr*. However, the *qazi* was increasingly associated with investigation, enquiry and reports. Even the imperial directives for enquiry were issued to the local *qazi* not directly but through the governor which shows that the *qazi-ul-quzzat* had virtually no administrative control over the local *qazis*.

Among the allied religious functionaries the *mufti* acted in the capacity of an adviser in the *qaziis* court on questions referred to him. Usually there was no regular appointment, any person well conversant with the *shariat* could be asked to act as a *mufti*. The active revival of the office of the *muhtasib* with simultaneous imperial directives on prohibition, discouraging music and checking of fraudulent commercial activities inorder to give religious colour

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# **“Administration of Justice in Mughal Empire” (with the special reference the reign of Aurangzeb)**

**“मुगल साम्राज्य में न्याय का प्रशासन”  
(औरंगजेब के शासनकाल के विशेष संदर्भ में)**

A Thesis Submitted  
In fulfillment of the requirements  
For the Degree of Doctor of Philosophy to the  
Tantia University, Sri Ganganagar  
In the Faculty of Arts, Crafts & Social Science  
Subject - History

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## Conclusion

Under Aurangzeb the administration of Justice was organized within the framework of a separate department styled as *diwan-i-sadarat* and supervised by the imperial *sadr*. The *sadr* not only provided an institutional link between the theologians and the emperor but also patronized and harmonized all sections of *ulama*. His jurisdiction was primarily confined to the recommendation and supervision of the *madad-i-maash* both in revenue-free land and cash stipends made in favour of religious and judicial office holders as also individuals and institutions. The scope of the *madad-i-maash* remained extended to the Hindus and other non-Muslims also, although a majority of non-Muslims still remained outside the pale of state charity. Theoretically *sadrs* were considered specialists on theology yet in actual practice they were expected to be impartial and good administrators. They were usually offered a high *mansab* in keeping with their prestige and position. Because of ample patronage which the *sadr* enjoyed in relation to all the communities he had developed a fairly liberal outlook in the matter of charities such as establishment of free kitchens and hospitals as also grants to the non-Muslims.

The *sadr* was usually responsible for appointment of the religious and quasi-religious officers including qazis. He wielded a great influence due to his holding the key position to enquire into eligibility and to assess the needs of the deserving recipient for *madad-i-maash*. This was an important aspect because normally *madad-i-maash* continued even after the exit of the person concerned from his office. While the *sadr* could play a significant role in the resumption of undeserving and irregular grants to the state, he was the real prop and stay of the grantees in as much as he protected them from undue harassment by the revenue officials and from forcible dispossession by those in power. The procedure

adopted by the *sadarat* in *madad-i-maash* to the deserving people and religious institutions involved the diwani department which was increasingly associated with such grants especially at the time of giving possession or settling the grantee at the specified place through the *chakbasta*. The revenue-free *madad-i-maash* grants given from partly fallow and partly arable land were mostly defined in bighas, although sometime a few grantees and institutions received a village or a group of villages for subsistence and for other recurring expenditure. The complexity involved in all these grants and the vigilance of the *sadrs* over the recipients including *qazis*, *muftis* and *muhtasibs* prevented the sale, transfer or gifting away of *madad-i-maash* rights at least prior to 1690 A.D. when administrative regulations were issued making grants virtually hereditary.

There is no concrete evidence to show that *madad-i-maash* grants given to the Hindus were resumed any time during this period. The imperial order of 16 RY addressed to the diwanis of the empire was too general in nature and does not seem to have been followed up strictly. Rather certain grants were renewed in favour of the Hindus in the *suba* of Bihar and other areas even after the 16 RY. The existing grants were probably not disturbed. A peculiar feature of the grants to the Hindus was that the area was usually small and at places defined in odd numbers such as 3, 21, 51, bighas probably to show some respect for the Hindu sentiments. However the period of Aurangzeb to *madad-i-maash* grants in accordance with the guidelines specified in the imperial *farman* of 1690 A.D. A close scrutiny of the *farman* has revealed that principles of the *shariat* were subordinated to the administrative regulations in the matter of succession. The imperial order was a step towards hereditary character of the *madad-i-maash* grants which slowly obliterated the distinction between *madad-i-maash* rights and the prevailing *zamindari* rights in the second half of the 18<sup>th</sup> century.



The key-figure of the judicial administration at all levels : imperial, provincial and local was the *qazi* who was recruited from among the theologians and received subsistence grant from the office of the *sadr*. Rarely a few *qazis* were offered *mansabs* also. The *qazi*, therefore, stood distinct but administratively subordinate to the *sadr's* department. The *qazi-ul-quzzat* or imperial *qazi* was basically a *qazi* but carried a higher status in relation to other *qazi* merely because of his association with the imperial court. In addition to deciding disputes himself or assisting the emperor in his court on decision of selected *shariat* cases or those referred to him, his duties were advisory in nature. Contrary to earlier practice of his predecessors Aurangzeb frequently consulted the imperial *qazis* on policy matters having direct or indirect bearing on the *shariat*. The issues ranged from the Mughals' expansionist designs in the Deccan to the religious controversies or irreligious activities of the particular individuals or sects reported to the emperor. It is a strange paradox that the *sadrs* even though head of religious office were not associated with many of the orthodox measures such as discouraging the building of new temples or imposition of *Jizya*. In all such matters it was a section of the theologians including some of the imperial *qazis* whose views were sought or who were associated and taken into confidence by the emperor. The reason for this can be attributed to the *sadrs* emerging more as administrators with broad outlook and usually considered as part of the Mughal nobility by virtue of their holding high *mansabs* while the *qazis* were considered by and large as bulwork or orthodoxy carrying traditional monopoly of interpreting the *shariat*. This does not, however, mean that the theologians played any significant role in formulating state policies. The uniqueness of India's situation with a large component of Hindu population and their customs made the formulation and implementation of *shariat* principles almost a difficult task whether in administration, polity or land revenue system. Aurangzeb's consultations and dependence on the *qazis*, perhaps a little more than any of his Mughal predecessors, was

aimed at showing outward respect for the *shariat* and at the same time keeping in view his political and administrative needs above the religious considerations. This is the reason why the advice of the *qazis* was repeatedly ignored and even rejected. At times orthodox *ulama* and *qazis* misused the confidence posed in them by crying for measures against a particular Muslim sect or cultic, ritual practices at certain Muslim shrines. At times the emperor took his own decisions by avoiding sectarian attitude and preferring the administrative reality with due regard to the Hindus.

It has been seen how inspite of respect for the *qazis*, Aurangzeb ignored their advice on religious issues and even subordinated *shariat* principles to the administrative needs or his own wishes by issuing *zawabit* regulations. He curbed the religio-political prerogative of the imperial *qazi* relating to formal concurrence on his accession to the throne by dismissing the imperial *qazi* who refused to read *khutba* in the emperor's name. *Qazi-ul-quzzat* Shaikh-ul-Islam, who was always held in high esteem by Aurangzeb had to resign in protest when his opinion against invasion of the Deccan kingdoms of Bijapur and Golconda fell flat on the emperor. *Qazi-ul-quzzat* Khwaja Abdullah was also reprimanded for giving a similar unpalatable advice to Aurangzeb on the legality of invading the Deccan. Thus Aurangzeb's approach to the Deccan kingdoms was motivated with an imperial perspective rather than religious considerations. Again there is no evidence to show that the imperial *qazi* was always invariably consulted in matters of taxation. His advice was sought but it was not imperative for the Mughal government to accept. The Mughal land revenue system was not based on the *shariat* and any attempt to impose *shariat* doctrines in preference to local usages was bound to end in failure. It is seen how Aurangzeb was forced to withdraw a tax on purchase, suggested by the imperial *qazi*, because such a practice resulted in the loss of revenue. The *qazi* did not try any land revenue case nor was he authorized to deal in any dispute which

might arise from escheat regulations. Although the *qazis* dispensed Muslim law and heard appeals, they were rarely asked to deal with political cases. A few such cases were, however, deliberately tried in the *qazi's* court probably with secret instructions for elimination of Aurangzeb's enemies on one pretext or the other. The emperor did not hesitate to interfere with the legal decisions of the *qazis* when he found that the latter had taken a stand against his wishes. While there are instances when the imperial *qazis* asserted their stand and left the job yet too often they colluded with those in power. The local *qazis* suppressed the innocent and cordoned injustice by accepting consideration money part from religious zeal, envy and selfish motives sometime played a possible role in *qazis'* attempt for action against parallel groups viz. the Bohra community of Gujarat and popularity of the *sufis* at the grassroot level.

The *qazi* was indirectly associated with *jizya* and *zakat* to the extent that he used to issue certificates for collection of *jizya* and *zakat* as also for religious expenditure from these sources. Such a practice however, did not vest in him any supervisory control over any Mughal treasury. While the motive behind imposition of *jizya* has been a debatable issue, one of the reasons for this can possibly be attributed to meet the situation arising from financial constraints on expenditure for religious charities. It was a paradoxical situation for Aurangzeb to provide charities to the ever increasing number of people and institutions on the one hand and limited, specified income and sometimes stagnating funds on the other. A solution to this particular situation lay in finding out avenues for income without putting extra pressure on the exchequer. In order to comply with the religious needs the *jizya farman* imposing a tax on the *zimmis* was issued. The collection was partly spent on the new machinery of *amins* employed for the purpose and primarily for religious charities. The imperial order stipulated that *jizya* collection was to be treated as separate from land-revenue and was to be spent for religious purposes only. In order to keep up the

religious sanctity, *qazis* and *amins* were associated with this measure. However, the rigidity in collection and notorious conduct of some of the *qazis* and *amins* not only negated the increase in income but also led to hostility from the population. There may be other factors and merely economic reason should not be considered as the basis for *jizya* yet the pointer shown by what was happening at the Ajmer *dargah* and discontentment of recipients of charity at the *dargahs* due to paucity of funds offer a fascinating study for further research.

The office of the *qazi* as built up at the local level while depriving him of many original powers adds new secular avenues to his jurisdiction. In addition to religious character of judicial functions, the *qazi* amalgamated in him the functions of a registrar and a reporter also. The evidence overwhelmingly suggests that people had started approaching the *qazi* in matters of sale, transfer, gift and sometimes mortgage of their property, for security of records and attestation of important documents for authenticity. The *qazi* also certified the grievances of the people attested by eminent people of the area in the form of a *mahzar* for onward transmission to the authorities for a suitable action. The *mahzars* were like modern public representations and quite effective in eliciting immediate response from the higher authorities. The *qazi* could report anything concerning himself or the people of his area, although he could not directly interfere with certain affairs. The *qazi* was also associated with attestation of certain documents, mostly agreements, required in the department of the *sadr* and the *bakshi* for record. Thus more and more people including rural folk had started approaching the *qazi*. In fact through his office.

In the capacity of a judge the *qazi* did not interfere in the traditional pattern of village assemblies popularly styled as *caste* or *jati* panchayats. There is perhaps no evidence to support the view that appeals against the panchayat or panchnama went to the *qazi's*

court. At the same time there is not concrete proof to suggest the employment of the pandits in the local *qazi's* court. Apparently *shariat* law as supplemented with local customs was applied in matters of sale and contract and this was the reason why a majority of non-Muslims still avoided going to the *qazi's* court for settlement of their disputes. As the village society comprised of not only village headman, cultivators, professional and artisans but several persons of distinct status enjoying rights and privileges over the land the *qazi's* office offered an opportunity for these people to approach him for their legal and other requirements and it was for them to make use of his office. With the acceptance of hereditary character of religious grants coupled with subsequent weakening of central authority the work of the *qazi* had increased enormously in the eighteenth century.

To facilitate *qazi's* work a digest of existing Muslim laws known as *Fatawa-i-Alamgiri*, based on Hanafi jurisprudence, was compiled which defined, *inter alia*, mode of punishment to be awarded to the convicts. Before this there were neither any clear and definite rules on offences and corresponding punishments nor any definite procedure in judicial administration. Some reforms were also suggested for speedy trial of the prisoners as a part of administrative regulations. However, the *Fatawa* cannot be termed as a step towards development of Islamic law which we find in other Islamic Asian and African countries. The codification did not result in any basic change in the *qazi's* functioning. The guidelines were reference books in nature and rather suggest that the *qazi* was to act by administrative regulations also than clinging to the mere principles of the *shariat*. The judicial procedure did not envisage the need for professional lawyers as understood in the modern sense. Rather *wakils* were mostly agents representing the ladies in civil including *madad-i-mash* disputes or occasionally giving assistance to the non-Muslims in matters of contract. The trials were

public and we don not find any case decided in camera. The proceedings were simple involving witnesses and reports.

It is also seen that the *qazi* was not the only person dispensing law. In actual practice three types of courts had emerged at the local level. In the absence of a well-defined jurisdiction the *qazi* occasionally clashed with the *faujdar* who also decided disputes while maintaining law and order in the area of his jurisdiction, although for most of the time their relations were cordial. The *qazi* confronted some interference from the *kotwal* also with regard to jurisdiction especially on detention of offenders. In the conflicting attitudes it was rather difficult for the *qazi* to dominate or enforce strict interpretation of the *shariat*.

The three-tier judicial system of the *qazis* was devoid of any strict coordination and demarcation. Every *qazi* possessed the original power of trial of the cases brought before him. It is not known whether an imperial or provincial *qazi* could direct a lower court for transfer of a case. This prerogative lay with the emperor or the governor of a province. The only coordination between them was sought through judicial reports and occasional guidance received by the local *qazi* from his counterpart at the centre or from the office of the *sadr*. However, the *qazi* was increasingly associated with investigation, enquiry and reports. Even the imperial directives for enquiry were issued to the local *qazi* not directly but through the governor which shows that the *qazi-ul-quzzat* had virtually no administrative control over the local *qazis*.

Among the allied religious functionaries the *mufti* acted in the capacity of an adviser in the *qaziis* court on questions referred to him. Usually there was no regular appointment, any person well conversant with the *shariat* could be asked to act as a *mufti*. The active revival of the office of the *muhtasib* with simultaneous imperial directives on prohibition, discouraging music and checking of fraudulent commercial activities inorder to give religious colour